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TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

Councilmember Marilyn Praisner, President
Councilmember Phil Andrews
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg

Councilmember Michael Knapp, Vice-President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal



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President Praisner,

Good morning, ladies and gentlemen. If we could please stand for a moment of silence. Thank you. General business, agenda -- before we begin. I'm expecting my other colleagues with the exception of Councilmember Elrich, who unfortunately is home under doctor's orders and, hopefully, he will recuperate soon from his injury.

Vice President Knapp,

I'm sure he is watching us on TV.

President Praisner,

I'm sure he is.

Unidentified,

(Inaudible).

President Praisner,

In fact I -- I may. I spoke to him this morning and he sends his regrets and regards to everyone. Councilmember Andrews?

Councilmember Andrews,

Yes, thank you. I just wanted to point out that his injury was not in vain. Councilmember Elrich took a line drive off the shin in a softball game between the Council and the County Attorney's, which may have well made the difference in the game, which the Council won for the first time in memory, I think 7-6. So he's recuperating from that injury, but he can know he made a difference.

President Praisner,

It is a far, far better thing that he has done. Agenda and calendar changes, Madam Clerk.

Council Clerk,

Good morning. There are a couple of announcements the Council has announcing the public hearing on the FY09 Annual Budget Priorities and Performance Measures that will be held September 11, at 7:30. And the public hearing on the Spending Affordability Guidelines for the FY09 Capital Budget will be held on September 18, at 1:30. We have some changes today; consent calendar -- .

President Praisner,

As usual on the last session for the summer recess.

Council Clerk,

H -- the second portion of H has been deleted. The appointment of Special Council for Collective Bargaining Issues, that item has been withdrawn, so only the first item is on. Adding an item to the consent calendar, Introduction of a Resolution to Affirm Rejection of the Incorporation of the Rolling Wood Village of Chevy Chase. We did receive an official request for a public hearing, so we have -- this will allow the hearing to be set



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and advertised for September 20, at 7:30 p.m. Legislation session today, Agenda Item 8 has been deferred; that was to be an Introduction of Expedited Bill 21-07, Personnel Disability Retirement Group F and G. That is off the agenda for introduction today. And then one last item, the PHED Committee yesterday did complete its work, and now before you at 1:45 this afternoon will be action on Executive Regulation 18-06, Workforce Housing.

President Praisner,
Thank you.

Council Clerk,
And we did have one petition.

President Praisner,
That's right; I was just going to ask you that.

Council Clerk,
Okay and that was a petition opposing the initiative to extend metered parking hours in Silver Spring.

President Praisner,
Okay. All right. Then we do have, I believe, some minutes in front of us, Madam Clerk.

Council Clerk,
Yes, we have the minutes of July 10, for approval, as well as the closed session minutes of May 1.

President Praisner,
Is there a motion?

Councilmember Ervin,
So moved.

President Praisner,
Councilmember Ervin? Is there a second?

Vice President Knapp,
Second.

President Praisner,
Vice President Knapp, this pause.

Vice President Knapp,
Hanging (inaudible).

President Praisner,



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I know, trying to keep me nervous. There are no lights so all in favor of the approval of the minutes of July 11 and the closed session minutes of May 1, please indicate? That is unanimous among those present. Now have a consent calendar motion, please.

Councilmember Andrews,
(Inaudible).

President Praisner,
Councilmember Andrews. Is there a second?

Councilmember Ervin,
Second.

President Praisner,
Councilmember Ervin, I believe I heard. Are there any items; Councilmember Andrews.

Councilmember Andrews,
Thank you, Madam President. I wanted to comment on D, E and U. D is the Resolution to Approve of Office of Legislative Oversight's work program for FY08. I want to thank the committee for its careful review of the projects and the Office of Legislative Oversight for their continuing good work and helping to craft at least the specifics of the project I'm proposing that would take a look at the County's employment practices with regard to people with disabilities in order to look at whether there are barriers in place that are reducing the number of people that we can bring on into County employment who have disabilities, and see if we can improve our results in that area. The Commission on People with Disabilities has been concerned about this for some time. And the Office of Legislative Oversight will take a broad look at best practices around the country and make recommendations to the Council about where we might go from here. It will also look -- the OLO report will also look at procurement practices in terms of its effect on firms that employ people with disabilities. I'm excited about that project, and I appreciate the committee's support for that and the other fine projects in the work plan. I also wanted to comment on item E, which is an Executive Regulation that would provide opportunities for Fire and Rescue volunteers to apply for what are traditionally employee-only positions. I think it is important to expand this opportunity to our dedicated Fire and Rescue volunteers, and that's what that regulation would do. And on item U, which is the Confirmation of the County Executive Appoints to the Housing Opportunities Commission. I want to thank the Executive for his nomination of Sally Roman and Pamela Lindstrom; two fine people who have done a lot of good in the County, and I know will bring a great deal of commitment and dedication and knowledge to the position; a very important one as we all seek to improve our ability to provide affordable housing in the County. So I want to thank the Executive for his nominations there.

President Praisner,
Council Vice President Knapp.



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Vice President Knapp,

Thank you, Madam President. Just a quick comment on Item -- actually, I wanted to -- .

President Praisner,

Okay.

Vice President Knapp,

On Item H, if possible, I'd like to -- I know we are coming back this afternoon. I would like to try and get some information on the appointment on number two under Item H, which is the appointment of (inaudible) for Collective Bargaining Issues.

President Praisner,

That's that one that's been withdrawn.

Vice President Knapp,

Oh, it's withdrawn. Perfect. All right. Even easier. I like that. I'll pay attention to Ms. Lauer next time. And then the second item, I just want to thank the Council President, Mr. Leventhal and Ms. Floreen, and the County Executive for their support in the introduction of the million and a half dollars from the Economic Development Fund for emergency assistant program for drought relief for our farm community. As everyone knows we've significant drought in spite of the rain we've had for the last two nights; that many of our -- much of our corn and soy bean crop production is expected to be well below what would be an appropriate yield. We have run into this in 1997 and 1999, and the County has stepped forward to help provide support to our agricultural community. And I think it is critically important as we are debating how we preserve our agricultural reserve through land use; it's also important that we make sure that our farmers continue to be viable. And this will be very helpful to them. One of the things that we heard yesterday from our farmers was in spite of the fact we have rain, much of the growing season for crops like corn and soy beans is effectively over. And so the question they have now is not whether or not the drought had impact, certainly it has, but they don't know until they actually do the harvest is to what the impact has been. And so many of our farmers will be approaching us for their support through this million and a half dollars we'll be introducing. And so I just thank my colleagues for their support for the introduction of that and the County Executive for their support as well.

President Praisner,

Councilmember Floreen.

Councilmember Floreen,

Thank you, Madam President. I just want to draw everyone's attention to Item 2G. It's a rather routine resolution to approve the Fiscal 08 schedule of revenue estimates for the current year. And I wanted to thank Mr. Sherer for answering my question, which had been given on our growth policy conversations what amount of our budget was premised upon assumptions about growth. And he's done up a little chart on this subject, which I thought was helpful and interesting. And, Mr. Sherer, you want to take



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us through what your -- what the budget -- what this says in terms of projected growth assumptions to fund our budget.

Mr. Sherer,

Well the question I was trying to answer was how much of FY08 revenues -- mostly in the Operating Budget, are due to growth and new construction. So from property tax, I started with FY08 assessable base of \$142.4 billion. And finance estimates that new construction accounts will be 1.1% of that. So therefore I estimated that 1.1% of the FY08 property tax amount would be due to new construction. So the FY08 property tax estimate is \$1.2 billion, and 1.1% of that is \$13.8 million; so that's our estimate of how much of the FY08 property tax comes from new construction. Then on income tax, finance projects the employment growth will be 1.5% from '07 to '08. So then it seems logical that the amount of income tax resulting from employment growth would be 1.5%. So 1.5% of the FY07 property tax is \$16.2 million. So that would be my estimate of how much income tax in '08 results from having more employees. Then transfer and recordation tax, I made the assumption that all of the new construction is both transferred and recorded. That's not -- that probably overstates it slightly, but transfer tax is 1% of new construction. And new construction I had at \$1.6 million and 1% of that is \$16.2 million. And similarly our recordation tax, there are two components of that. The recordation tax which existed for a number of years at 0.44%, then several years ago you increased that to 0.69%, but that increment is for the Capital Budget. So I'm just showing the Operating Budget portion as 0.44% of new construction, which is \$7.1 million. Then for the (inaudible) tax, energy tax, telephone tax, hotel tax and amusement tax, the only way I could think of estimating that associated with growth was to do it based on increase in number of new households, which we think is 1.4%. So it just seemed logical that those taxes would grow at about the same rate as the number of new households. So those four taxes in FY07 were about \$174 million, and at 1.4% growth it would be \$2.4 million. Then finally, the Department of Permitting Services, that is an enterprise fund, and their total revenue is \$30.3 million. And I note that some of the revenue is not from new construction, but instead it's from renovations or additions to existing construction. But I have no way of being more precise unless we do some more detailed calculations. So the sum of all those revenues due to growth and new construction is \$86.2 million. And the total Operating Budgets revenues were \$4.151 billion. So that means that the revenues from growth and new construction is about 2.1% of the total in the Operating Budget. Then in the Capital Budget, the school impact tax is \$8 million. And if you want to relate that to something, I would say you could relate it to FY08 Capital Budget for the schools, which is about \$239 million. The transportation impact tax, \$10 million is the estimate for '08. And I think you relate that to the County Government Capital Budget, which is \$291 million. And finally, the recordation tax for the Capital Budget is \$35 million. And I think you relate that to MCPS Capital Budget of \$239 million; and also the College Capital Budget because that recordation tax funds both of those agencies. So that is what I have done.

Councilmember Floreen,

So you're -- so what is the total number that you are associating with the growth estimates?



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Mr. Sherer,

Well I had \$86.2 million in the Operating Budget and then \$53 million in the Capital Budget. Normally we don't add the two budgets together. Those are the two numbers.

Councilmember Floreen,

Sure. Okay. Well thank you very much. It is an interesting exercise. I don't think it finds anything for certain, but it gives us a sense of what our assumptions are.

Mr. Sherer,

It is just an estimate; it's not a precise calculation.

Councilmember Floreen,

Sure, sure. Well thank you very much. I think that is helpful. I'm sure we will all dwell on this as we take the month of August off and revisit -- .

President Praisner,

There will be other things to dwell on but that's okay.

Councilmember Floreen,

But thank you very much, Chuck. I do appreciate that. And I think it's a -- it was a helpful factual inquiry. Thanks.

President Praisner,

Thank you. I wanted to make a couple of comments on a couple of items. I want to join my colleagues in congratulating both Sally Roman and Pam Lindstrom on their appointments to the Housing Opportunities Commission. I think they will both make significant contributions to that organization. And we look forward to seeing them wearing different hats when they come to talk to the Council and have an opportunity to meet with us. Also, I want to note that on the economic impact for the drought issue that we are scheduling the public hearing for September 11. We will then following the procedure of 1999 when we dealt with the issue, we will go to the PHED Committee and I hope by the end of September, we'll hope to resolve that. It will be useful in that process to also have information on what may be transpiring related to the Governor's request to declare our County's disaster areas because of the drought and see what that might portend in one way or the other. Also want to note that we are releasing an Office of Legislative Oversight report as well as the work plan on the Office of Legislative Oversight, and I think those are useful and important pieces of our broadening our understanding of the budget and of departments within the budget. Finally, I would like to make a comment on the appointments to the Mid County Citizens Advisory Board, because we received some correspondence questioning the ability of one of the applicants to meet the workload obligations. And I can say as the Councilmember who interviewed those candidates that that specific question was asked. And I think appropriately answered. Every resident of the County who is interested in serving should be considered in an equal way by the Executive and the Council. Should the individual not meet the obligations of attendance and participation,



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there are ways to respond from that perspective as well. So all in favor of the consent calendar, A-W, please indicate? That is unanimous among those present. We will move to the confirmation of the County Executive's appointee as Director of the Office of Community Partnership. Mr. Adams, if you are here and Mr. Firestone want to join us at the table. Councilmember Leventhal.

Councilmember Leventhal,

Thank you, Madam President. I want to say that Bruce Adams has really taken on this task very energetically and with -- .

President Praisner,

Typical gusto.

Councilmember Leventhal,

With an amount of -- gusto, yeah, that is really -- outdoes any previous occupant of this position that I've seen before. I think the office -- .

President Praisner,

It's a new position, George?

Councilmember Leventhal,

Well no it's not exactly a new position. I mean, there had been -- he assumed a -- what is the word; an FTE that existed prior. We're not adding a position to the budget. There had been a similar office. Its title has been changed and its duties have been expanded. But there had been outreach efforts dating back to County Executive Gleason's tenure here. I just think that Bruce Adams has taken on this task with extraordinary energy, and I've had the opportunity to work very closely with him and bring to his attention elements of the community that I think require closer attention from the Executive Branch. And he's been extremely responsive. We've been spending quite a bit of time together, and I looking forward to continuing to do so. I just really want to congratulate him for the energy that he's taken -- that he's taken on this task with.

President Praisner,

Councilmember Andrews.

Councilmember Andrews,

Thank you. I wanted to congratulate former Councilmember Adams on his great work over the last three decades; doing all kinds of good things from founding Community Service Day to starting the Big Train Baseball program, to all of the initiatives in the community that he has undertaken. A great appointment; already doing great work; and I look forward to working with you closely in the next four years.

President Praisner,

I would entertain a motion, if anyone would like to make it. Councilmember Berliner.

Unidentified,



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Second.

President Praisner,
Seconded by Councilmember Trachtenberg. The appointment of Bruce Adams as Head of the -- Director of the Office of Community Partnership is before us. All in favor? It is unanimous among those present. Congratulations.

Mr. Adams,
Thank you very much. I've never said so little.

President Praisner,
That's true when you sat over there. Great. Thank you very much. Now move to confirmation of the County Executive's appointee as Executive Director of the Criminal Justice Coordinating Commission, and once again, we have someone in front of us who is no stranger to the County Council. Councilmember Andrews.

Councilmember Andrews,
Thank you, Madam President. The Public Safety Committee recommends the appointment of Michael Subin, our former colleague, to the position of the Executive Director of the Criminal Justice Coordinating Commission. Mr. Subin has served with distinction in a large number of positions for 20 years as a member of the County Council, where he chaired the Education Committee during the entire time, and for eight years of that period as a member of the Public Safety Committee. A 33-year veteran of the Navy, where he had emergency management responsibilities, and was a captain in the Naval Reserve. I think he has as many degrees as our County Executive. I counted four. I think that's the same. And he brings great energy and interest and knowledge to the position; a very important one. The amount of interagency cooperation that there needs in criminal justice these days is unprecedented, and the County has been moving in that direction for some time, and it will move even further with Mr. Subin helping us there. So the committee recommends his appointment to this position.

President Praisner,
The committee's recommendation is before us. Councilmember Leventhal.

Councilmember Leventhal,
Yeah, I just wanted to say those of us who had the pleasure of serving with Councilmember Subin know how deep his knowledge is of the criminal justice system and how much he cares about defending the interests of those who need to be looked out for, and his dedication to the public interest. This is a good nomination. I'm happy to support it.

President Praisner,
I, too, am happy to support the nomination. It is nice to see that Councilmember Subin's expertise will be used in another way. And I look forward to seeing him in that capacity. All in favor of the motion? Unanimous among those present. Mr. Subin, would you like to say anything? How long has he got?



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Mr. Subin,

Has the clerk started the clock? I just want to thank the Council and the Executive, and I want to thank the Executive and Council for the confidence you've placed in me. And I really look forward to working with you and working closely with both the Public Safety Committee and the Health and Human Services Committee. I think Mr. Andrews was right. There is an unprecedented need for cooperation, and it's going on. And we just need to ratchet it up.

President Praisner,

Okay. Congratulations. Thank you. We'll now move to the board of health for the introduction of a resolution to adopt the Board of Health regulation requiring certain eating and drinking establishments to post certain nutrition information on menu boards and menus, sponsored by Councilmember Leventhal.

Councilmember Leventhal,

Thank you, Madam President. There will be opportunities later to discuss both of these pieces of legislation in detail. I just wanted to explain to my colleagues why I was introducing both a Board of Health regulation and a separate Bill. And the answer is very simple. The Board of Health regulation would apply throughout the Montgomery County without regard to municipal boundaries. My initial instinct is I think it is desirable if the Council sees fit to enact this legislation that it apply throughout the county and that there not be different rules in the different cities. On the other hand, I acknowledge that this is groundbreaking legislation. We've not had the opportunity to hear from Municipal Governments. I'd like to hear their point of view on that. And so I want to set the clock in motion in both regards if it is the will of the Council to act just as a Bill that would not cover Rockville, Gaithersburg and other municipalities. I wanted to give us the opportunity to have that menu, as it were, of choices. So that's my intent here. My initial preference, as I say, is that this do apply throughout Montgomery County. But we will look forward to the testimony at the public hearing and additional input we'll get from the community.

President Praisner,

Okay. Councilmember Trachtenberg.

Councilmember Trachtenberg,

First off, I want to thank Councilmember Leventhal for his leadership on this issue, and I think on the heels of the passage of our zero trans fat Health Board regulation, I think this is another important step to take to protect the public health. So I actually would ask that my name be added to both as sponsor, George.

President Praisner,

Okay, duly noted. The resolution is introduced. Now move to legislative session. Is there a legislative journal, Madam Clerk?

Council Clerk,



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You have a journal of July 3rd for approval.

President Praisner,
Is there a motion?

Vice President Knapp,
(Inaudible).

President Praisner,
Vice President Knapp; second, Councilmember Trachtenberg. All in favor of the motion to approve the minutes of July 3rd? Unanimous among those present. Now move to introduction of Bill 19-07, Eating and Drinking Establishments, Nutrition Labeling, sponsored by Councilmembers Leventhal and Trachtenberg. The public hearing for this legislation is scheduled for July 18, at 7:30 p.m. George, no other comments you want to make at this time? Okay. Thank you. We'll now move to Expedited Bill 20-07, Bond Authorization, sponsored by the Council President at the request of the County Executive. Public hearing and action is scheduled for this legislation on September 18, excuse me, at 1:30 p.m. Item 8 has been deleted. We'll now move to Bills for a final reading. The first Bill is Expedited Bill 16-07. I would turn to the Chair of the MFP Committee, Councilmember Trachtenberg, to give a report.

Councilmember Trachtenberg,
Expedited Bill 16-07 was discussed twice in work session -- MFP work session, and as colleagues know, it would exempt private daily fee golf courses, those not part of the country club -- of a country club or operated by the County Revenue Authority, from the County Admissions Tax. At yesterday's work session, a majority of committee members supported exempted private daily fee golf courses from the tax. And all the committee members recommended amending the Bill at the suggestion of Council Vice President Knapp to exempt agricultural tourism.

President Praisner,
Okay. Council Vice President Knapp.

Vice President Knapp,
Thank you, Madam President. I just want to thank the committee for their efforts and recognition of the issues that our two private/public golf courses are confronting, and the issues that the agricultural community is focused on as they try to reach out and look for different avenues of economic viability. And so I just appreciate your efforts and the committee's diligence in their approving of this measure.

President Praisner,
I see no lights. The clerk will call the roll.

Council Clerk,
Ms. Floreen.



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Councilmember Floreen,
Yes.

Council Clerk,
Ms. Trachtenberg.

Councilmember Trachtenberg,
Yes.

Council Clerk,
Mr. Leventhal.

Councilmember Leventhal,
Yes.

Council Clerk,
Mr. Andrews.

Councilmember Andrews,
Yes.

Council Clerk,
Mr. Berliner.

Councilmember Berliner,
Yes.

Council Clerk,
Mr. Knapp.

Vice President Knapp,
Yes.

Council Clerk,
Ms. Praisner.

President Praisner,
Yes. The Bill carries 7-0. We now move to Expedited Bill 18-07, Tenant Displacement, Sale of Mobile Home Park, Right of First Refusal. The Planning, Housing and Economic Development Committee considered this legislation and with Councilmember Elrich absent, recommends approval. As Councilmembers know, we recently dealt with tenant displacement through the traditional type of housing. And in the process of doing so the Housing Opportunities Commission recommended that the legislation be extended to the mobile home park. The committee at that time did not believe it was appropriate to do so because of inadequate notice to, as in this case, the one owner of a mobile home park in the county. So with the direction, we've introduced the Bill to extend this to the



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mobile home park as a separate piece of legislation, and asked our staff to do an aggressive outreach to the property owner in question. That contact was made. There was no testimony in opposition to this or no communication in opposition to this when the Council considered it in public hearing. And the PHED committee now recommends approval of the legislation. Madam Clerk, if you could call the roll.

Council Clerk,
Ms. Ervin.

Councilmember Ervin,
Yes.

Council Clerk,
Ms. Floreen,

Councilmember Floreen,
Yes.

Council Clerk,
Ms. Trachtenberg.

Councilmember Trachtenberg,
Yes.

Council Clerk,
Mr. Leventhal.

Councilmember Leventhal,
Yes.

Council Clerk,
Mr. Andrews.

Councilmember Andrews,
Yes.

Council Clerk,
Mr. Berliner.

Councilmember Berliner,
Yes.

Council Clerk,
Mr. Knapp.

Vice President Knapp,



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Yes.

Council Clerk,
Ms. Praisner.

President Praisner,
Yes. The legislation passes 8-0, with Mr. Elrich absent. We'll now move to Expedited Bill 17-7, Taxicab Driver Identification Cards. And I call on Councilmember Floreen.

Councilmember Floreen,
Thank you, Madam President. This piece of legislation is basically designed to make it continue to be a little bit easier for the taxi industry to serve the public. Basically, for those Councilmembers who are new to our world of taxi regulation, you may not have realized that running for office you were going to become a taxi regulator. But it was a big issue in the last Council, and particularly at the request of the Group Action in Montgomery and senior advocacy groups for the handicap, who pressured us to address the problem of poor service, resulting from whatever. Some would say a driver shortage, others would say management challenges. But the fact of the matter is that we enacted several years ago a variety of recording requirements and a variety of testing requirements that we had not had previously in order to assure a safe and reliable service in the taxicab world. Today what we have before us and what the recommendation of the T&E Committee is to enact amendments to the current Bill that would basically allow the continuation of temporary -- of a program providing for temporary ID cards where either the State or the Federal Government has conducted a criminal background check, but allowing the department to immediately revoke an ID if further investigation -- the completion of the alternative check; either the -- if we've gotten the state one in first, if the federal one comes in with issues or if the state one comes in with issues after the ID has been issued, allowing them the authority to immediately revoke that ID. The reason -- at this point, this is really truly a safety net issue for the purposes of addressing the taxicab service issue. And you will see on Circle 14 of the packet the Coalition for Competitive Taxicab Industry's concerns which led to the introduction of this legislation. They indicate that they have only about 74% of their needed -- complement of drivers. They indicate to us that recruitment is very competitive with neighboring jurisdictions all of which, by and large, have easier systems to work through and can get drivers in the cabs more quickly. There is a tremendous turnover in the industry. And we have increased the number of licenses -- PLV's granted because of the shortage of taxis and problems that that created, and now they need drivers to fill those slots. I just note, a temporary license is for taxi drivers are standard practice in most cities nationwide. And that we have had no difficulty with any drivers since the temporary ID process was reinstituted last fall where there has been any misconduct or crime against any passenger. Generally, nationally crimes by drivers against passengers are very rare. I will note we discovered that during the same period, since last year, there have been 11 crimes committed by passengers against drivers, mostly robberies. So it's a challenge to create the service that the committee wishes to have given the turnover, the experience rate and our service expectations. Basically this Bill now provides though for complete revocation of a temporary ID if there is a



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disqualifying cause, as I indicated. There are only about three to five temporary ID's being issued each month. And we're getting better checks than we had gotten previously in terms of time. But the issue that the Coalition has raised with us and is outlined in their memo, is if there is a problem and they come to us it will take several months for us to take any action whenever. We really don't want to be managing this on a day-to-day basis. So this allows a certain amount of safety for the industry to provide the service that they've -- we've held them to and with an expectation that if there is a problem with the background checks that issue will be immediately rectified. So that's the background on this. I know there are some concerns about the whole temporary ID process, but there is a lot of history here. And a lot of competing values that we tried to balance over the past couple of years to make sure that both -- passenger safety is assured and service is achieved. And the one question that I'll just note is whether or not we have to start worrying about driver safety in the long run to ensure that we maintain a pool available for the service industry. So that -- the T&E Committee recommends approval of the Bill before us. I don't know if anyone else in the committee wants to comment.

President Praisner,
Councilmember Ervin.

Councilmember Ervin,

Thank you, Madam President. I was not on the last Council, but I have come up to speed as much as I could on this taxi legislation. And I am a primary sponsor of this particular Bill. I just want to go back to last October '06. I pulled the minutes of the Council meeting where the vote was taken 8-0 in favor of this legislation. Basically what we are doing is just extending the current practice that the prior Council voted unanimously among those present to support, including Councilmember Andrews, who has indicated that he's got some issues with the practice. So, Mr. Andrews, when I looked up the minutes of that meeting, I noted that you made no comments at that time. And as the Chair of the Public Safety Committee, I would have imagined that some of this must have been discussed in committee, but it was not discussed that day, last October '06, when the Council voted unanimously to pass the legislation that we're considering looking at again here today. But I just want to note for people who are listening in that we are not the only jurisdiction in the region that has this practice -- Arlington County, the city of Alexandria, Fairfax County, Arundel County, Baltimore County. And so this practice, as Councilmember Floreen stated, is something that is done around the country, but is primarily in our region. So this Bill would just continue the practice of allowing DPWT to issue of these temporary taxi driver identification cards. And if you go back to the intent of the taxicab legislation in the first place, it was to respond to the needs of constituents who had poor service because of a lack of drivers in the County. So I very much am in support of this legislation. We are just going to give the industry more time even though the checks are coming back a little bit more quickly than they were in the past. This is a safety net measure. I'm hoping that my colleagues will support it.

President Praisner,



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Councilmember Andrews.

Councilmember Andrews,

Thank you, Madam President. Well I definitely agree that focus here should be on the safety aspect of this issue. And I do appreciate the good work that the T&E Committee has done over the years in responding to the needs of the industry to improve customer service and be available to our passengers throughout the County. The taxicab industry is very important. It is a tough job. It can be a dangerous job for drivers, that's true. And we need to find the right balance in ensuring that we have a viable taxicab industry, but we have one that also has adequate safeguards in place to protect the public. Well what do we know since October of last year when the Council last took action on this. We have information from the Department of Public Works and Transportation that of the 151 temporary ID's that were issued since that time, there were five instances where they had to be revoked due to information that became available when the background check was complete, that was not picked up by the initial background check. We know there were four instances where there were criminal histories revealed on the FBI report that were not picked up by the state background check. Right now the requirement is the applicant has to pass the state background check and the driving test before they get the temporary ID; but they don't have to have the FBI check back before the ID is issued. And that's a problem. And the reason it's a problem is because the FBI check picks up different things. The Maryland check picks up state issues, picks up the driving test, but it does not pick up what is on the FBI report, which can be very significant. Customers, I think -- and I think many of our constituents would be surprised that you have that background check not complete before an ID and a license to driver a taxi can be issued. So what we, I think, should do is recognize that we no longer have the problem that we appear to have last year and the year before and the year before that when we had long delays in the response from the FBI to request for background checks, and that was true at the time. But it's no longer the case. According to the testimony provided by the Coalition for Competitive Taxicab Industry, the -- since about April they wrote both the Federal and State background checks have been returned to DPWT in about one week or less. And that's good news. And that would seem to argue that there is no longer a significant issue in waiting for these checks to come back. And that given the experience we've had since October that we know that there were four instances where a person who passed the state background check and was given a temporary ID was later found to be disqualified because of what came back on the FBI check. Well, it seems to me that we should take that information into account and weigh the competing claims we have on the public policy in terms of getting drivers through into taxicabs so they can serve our residents respond to calls, but also ensuring at the same time that drivers are going through and having a complete background check before that occurs. And so it seems to me the provision is no longer needed, and if it continues will present a continuing risk to the public, given our experience in the last eight months since the measure was last approved by the Council. So I believe that it would be in the public interest to table this provision that actually does address one of the issues that was raised by the Chair of the committee, Councilmember Floreen, because if the Bill were tabled and if there were a resurgence in the slowness -- the former slowness of the FBI to respond to the request for background checks, then the



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Bill could be brought back quickly without having to go through reintroduction, public hearing and so on. So that would address that concern if my colleagues would like to have that option. But it seems to me that this is not a Bill that is needed now in order to move taxi drivers through the system given how quickly the checks come back. And I think it's a practice we should avoid of giving licenses to drive a taxi before background checks are complete, especially given the experience that we have had with the number of disqualifications since the measure was last adopted and the temporary ID's began to be used again last October. Five out of 151 is about 3%. Not an insignificant number of the people who failed the FBI background check after passing the state check. And so I will make a motion to table the Bill for those reasons.

President Praisner,
Is there a second?

Unidentified,
Second.

President Praisner,
It has been moved and seconded that the Bill be tabled. The motion to table is not debatable. We will move to a vote on the on the motion to table. All in favor of the motion to table please indicate by raising your right hand; Councilmembers Andrews, Berliner, Trachtenberg and Praisner. Those opposed; Councilmembers Leventhal, Floreen, Ervin and Knapp. The motion fails. We are back to the original motion and the committee recommendations. And the next person to speak is Councilmember Trachtenberg.

Councilmember Trachtenberg,
Thank you, Madam President. I want to speak in support of the remarks that were made by my colleague, Councilmember Andrews. About two weeks ago I was away on a business trip and landed at an airport at 3:00 a.m., and had to get into a cab to go to a hotel in a conference facility that was actually quite a distance from the airport. And again, you know, another reminder for a woman traveling alone, the precarious situation you are in at that time, and the fact that you are relying on the license that is provided to that cab driver that they will get you where you want to go to, but more importantly, you will get there safely. And I think the point that Councilmember Andrews has made about perhaps is it is only 3%, but that is not insignificant is a good point to raise. And it is for that reason that I supported his motion. But I would encourage my colleagues to think seriously about the safety factor and how customer safety is very much the most important priority. Certainly it is a priority over customer base expansion. I don't feel from what I've heard and the testimony that was provided that there is an urgency here to change things. In other words, I would really like to see us table this. Obviously, we are not going to do it. But I speak in support of what Councilmember Andrews raised.

President Praisner,
Council Vice President Knapp.



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Vice President Knapp,

Thank you, Madam President. The question I would ask is if -- we had a tabling motion; there are still other things out there in front of us that could still be addressed. I think the point that's raised is significant. What happens if the Bill were to expire on August 31, and the Council has not taken action?

Mr. Faden,

That particular provision of the current law would not be in effect. I believe the previous time it expired, the Council reinstated it after the fact. And you could do so again if this Bill were still pending after August 31.

Vice President Knapp,

The issue that Mr. Andrews has raised is significant. The fact that for two months we've had better -- or three months we've had better success with the background checks I think is a good sign, but certainly not indicative of the fact that that's going to continue forever. I think in light of that -- well, I think given the concern, I think the concern the Chair of the T&E Committee has raised and given the issue addressed by Mr. Andrews, I think that there is -- it would seem to me to make sense to actually postpone the deliberation of this for -- until we come back September, and to be able to look at this and see -- we could even postpone it to the call of Chair, postpone it to a date certain, and then see if we continue to have the issue. If background checks continue to be moving through quickly then there isn't an issue if we actually have seen a lapse again and it's taking longer to get the background checks done, then as the industry has raised, it would give us the ability to act quickly as opposed to having to reintroduce a piece of legislation. So I guess at this point I'd make a motion that we postpone the consideration of this until -- either postpone it to the call of the Chair and then we've got the flexibility to address this as necessary if the issue presents itself again. So I would make that motion.

President Praisner,

Okay, the motion has been made that we defer action on this legislation until after we come back or when at some point the Council President believes it's appropriate to reschedule. It has been moved and seconded. Questions? Councilmember Floreen.

Councilmember Floreen,

I just have a question about that. Currently, the law basically precludes the temporary ID program after August 31st. Correct?

Mr. Faden,

That is correct.

Councilmember Floreen,

So, if we were to postpone this, the law would expire; temporary ID's would not be possible. The issue would be whether or not it could be brought back to the Council and -- what other notification processes would need to be adhered to in order to take action?



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President Praisner,

It would be my understanding that no notification would be necessary because we've already held the public hearing, gone to committee; all it would require is the Council President scheduling the Item.

Councilmember Floreen,

Is that your understanding, Mr. Faden?

Mr. Faden,

That is my understanding.

Councilmember Floreen,

Because the, you know, all I'll say and I'll go along with delaying this, but the fact of the matter is it puts us in the position of dealing with this on a pretty regular basis. And I'm not sure that is the best way for the Council to operate in this regard. If you're going to get into background checks with respect to employees, there is a long list of issues with respect to county employees that we might want to look at. And I'm not going to raise that here, but there are very inconsistent practices in that regard. So the issue here is really service balanced against some predictability in the criminal investigation world. And, you know, we've tried to strike a balance throughout all of this. Because this is a very valid concern that Mr. Andrews has raised. And we have also -- I'll just remind folks, especially for the newer Councilmembers, we have a requirement about showing up. What is it? Twenty minutes, I think, before and after the allotted time for taxi calls. And if we are going to hold the industry to some pretty demanding standards, I think we have to make it possible for the industry to meet those standards. And I do hope that we don't put the T&E Committee in the position of having a meeting on this every couple of months because we are really not -- I hate to say this, the perfect taxicab industry organization -- that might be out there -- to handle these on a regular basis.

President Praisner,

Councilmember Leventhal.

Councilmember Leventhal,

I have great respect for the Chairman of the Public Safety Committee. I know he takes his responsibilities very seriously, and I appreciate the point that he makes. The T&E Committee for the last several years has been delving into the economics of the taxicab industry, and it is an enormously difficult service to provide; costs are high; the labor pool is limited; it's not a desirable job; it's difficult to find drivers. What the legislation that Ms. Ervin and Ms. Floreen have offered does is it does require that a background check be completed; it just has to be either a State or Federal background check. What has occurred is that the federal database isn't yet perfect and there have been significant delays. And what the delays have meant is that someone who might be interested in driving a cab now might no longer be interested six to eight to ten to twelve to fifteen weeks from now. And it's true that the Federal database is getting better and we hope that the need for the temporary ID's will go away under the legislation approved by the T&E Committee, the temporary ID's would go away on December 1, 2008. So I just -- I



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wish that -- and I agree with Ms. Floreen's observation, I mean it is not a perfect world, it is serious that serious incidents occur in taxicabs, and I do believe the T&E Committee did take its charge seriously as well. On the other hand, from my own experience, I know it's not easy to get a cab in Montgomery County, and I think that the shortage of drivers is contributory. I do believe that. So we've wrestled with this; we've made our recommendation to the Council; I'm going to stick with the committee's position.

President Praisner,

Okay. The motion before us would be to defer action on the legislation at the call of the Council President. All in favor of that motion? Councilmembers Andrews, Berliner, Knapp, Praisner and Trachtenberg and Floreen. Those opposed, Leventhal and Ervin. The motion carries. We'll now move to Bill 15-07, again back to the T&E Committee. Councilmember Floreen.

Councilmember Floreen,

This is our day. Yes, indeed. Thank you, Madam President. This is a Bill sent over by the County Executive asking us to take a look at the forest conservation rules. Basically, this provision is unanimously recommended by the T&E Committee. It would treat religious institutions in the same way that we treat other institutions -- institutional development in applying the Forest Conversation Law. There has been a flurry of communication on this subject. I will not there seems to be some perception that the proposal before us is to exempt religious institutions for the forest conservation standards. And I want you all to know that that is indeed not the case. It would simply be not to single religious institutions out for different treatment than any other institutional development. And so there are standards. You can see them on Circle 2 of your packet, which would apply to religious institutions. There has been a fair conversation about the legality of what was done previously in terms of singling out religious institutions for really quite different treatment under the Forest Conservation Law. You have before you lengthy and wordy exchanges of really legal opinions from Mr. Faden and the County Attorney on the subject. Both of whom are here and probably quite ready to delve into technical legal debate. I think from the committee -- certainly from my perspective the question is what's fair? And I think what's fair is to treat religious institutions as we treat other institutions. There are also some specific issues associated with a particular applicant. But again for Councilmembers who were not here previously in the last Council, we had quite a conversation about how we dealt with religious institutions and private institutions in the AG reserve. But there we dealt with the private institutions collectively. Anyone who was characterized as one in that environment would be treated the same way. And I think it's fair that we behave that way when we're dealing with our other rules, and that standard would be applied to this. So the T&E Committee unanimously recommends that religious institutions be subject to the same rules as other institutional developmental uses. Under the zoning ordinance, that's the recommendation of the County Executive and that's the recommendation of the T&E Committee.

President Praisner,



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Thank you. I do want to note that I had indicated, as our agenda does, that we would schedule this pending receipt of the Planning Board's opinion. I want to make sure that since it came as a separate document as an addendum that the Council is aware of the letter -- rather brief letter that we received from Mr. Hanson. In it, he says that under the existing Forest Conservation Law religious institutions must comply with the Forest Conservation requirements of the underlying zone. The proposed amended removes this requirement it allows for religious institutions to be treated the same as all institutional development areas. The board supports 15-07. The elements in 15-07 are included in the Park and Planning Commission's rewrite of Chapter 22 -- that is the Forest Conservation section as proposed and discussed at the June 18, 2000, public hearing. I assume -- I'm not sure whether that refers to the Planning Board or the Council. I assume that is the Planning Board. I want to make a couple of other comments before I call on my colleagues. The Council knows and I think many members of the community know that we are in the process of looking comprehensively of the Forest Conservation Law. This issue of forest conservation and what's the appropriate legislation or what modifications should be made to a law that has been in existence for some time. It has been modified over that time, but it has been in existence for some time. It is before the Council and has been before the Council. What is to be considered this fall, hopefully, will be that more comprehensive review of the Forest Conservation Law and the elements of it. The question has risen from folks in the community as to the rational for considering this piece separately, and it's a very clear answer. The County Executive sent this Bill over as an expedited Bill. And I believe that as courtesy to the County Executive, we should consider this Bill. We will be looking at the entire Forest Conservation Law, including the relevance and relationship with institutions this fall. So with that, I'll call on other Councilmembers. Councilmember Leventhal.

Councilmember Leventhal,

Thank you very much, Madam President. I actually want to begin with the discussion of whether or not this is an expedited Bill. In my recollection it was the T&E Committee that moved unanimously to make it an expedited Bill, and that as introduced, it was not. This is a very important point because an expedited Bill requires six votes in this body. Simple passage of a Bill requires five. I have views on this Bill, and I want to speak to those in a moment. But first, I'd just like to make a suggestion. And that is very simply that we vote first. And I will so move on the question of this should be an expedited Bill. That would then give the body a sense if whether there are adequate votes to make this an expedited Bill. If that motion fails, we would then go back to the Bill as introduced, which is not an expedited Bill.

President Praisner,

So your motion would be to remove expedited from the legislation in front of us. That would have to be the motion that you are calling.

Councilmember Leventhal,

Well that's a good question. I was going to make a parliamentary inquiry. I hate to have to vote against my own motion. I do support making it expedited, however I don't know



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where the votes are on this. I haven't really had the opportunity to poll my colleagues, and I know that we have, as the Council President refers to, received a lot of communication from the community. And I agree with the Council President. I think there have been some misperceptions in much of that communication. Let me just speak to the merits of the Bill, and then I'll just put the issue out there for my colleagues to think about. I'm willing to make a motion to remove the expedited, but understanding that I'll then vote against my own motion since I do indeed support making it an expedited Bill. But that requires six votes. Let me just speak to the basic merits. I know. Try to keep up. Try to keep up.

President Praisner,
It's a web we weave.

Councilmember Leventhal,
Try to keep up.

Unidentified,
And it's break tomorrow.

Councilmember Leventhal,
Try to keep up. Okay, friends, the history on this is important to understand. And the packet states that the decision by the Council in 2001 to treat religious institutions differently from other institutions -- and I'm reading from page four of the packet. That decision was in response to concerns that the large institutions were being proposed on land zoned for agricultural and low-medium density residential uses. In other words, according to my conversation with Mr. Faden, there was a concern at that time in 2001 that agricultural areas ran the risk of being overwhelmed by religious uses. Now we had an extensive debate on this -- on the prior Council a couple of years back about protecting the agricultural reserve -- the RDT zone. And there was a concern that because other types of development is not permitted in that zone, land is relatively cheap compared to other land; and that institutions that may not have a whole lot of resources to buy land might find that relatively cheap land attractive. And then my proposed uses on the land that we believe were undesirable and incompatible with the purposes of the RDT zone. And so the Council acted. And what the Council did was we said there would not be any water or sewer hookups in the RDT zone. There had prior been a policy of disallowing water and sewer hookups, but not for the private institutional facilities. When we decided to keep private institutional facilities from having water and sewer hookups in the RDT zone, that decision had a number of repercussions. Most significant among those is that some specific religious applicants had to abandon their plans for constructing religious facilities in the RDT zone. Now I supported that decision. I voted for it. In my judgment, it goes a long way to address the concern that Mr. Faden speaks to in 2001; the concern that religious institutions might overwhelm land that we've set aside for agricultural preservation. The other repercussion though -- and I do hope my colleagues will pay attention on this point. The other repercussion is that this Council sent a message, perhaps it was not the message we intended, but it was the message that was heard. And the message that was heard is that Montgomery



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County government is not really friendly to religious institutions. And I don't say that because I believe it, I say it because I have been told it by many people of faith, by many religious leaders, by clergy throughout the community. Now I have had the pleasure, as I know my colleagues have as well since being elected, of spending quite a bit of time in houses of worship throughout this community. And I have said and I'm sure my colleagues have heard me, if you want to meet your constituents, they're in church and synagogue and mosque and temples; that's where they are. And my constituents will share with their pastors concerns and issues and fears and worries that they will not share with their politician. And to get a real understanding of the complexity and the difficulty and the challenges and the issues that are facing the people of Montgomery County, I've found it enormously beneficial, as I know my colleagues have, to develop real in-depth working relationships with the clergy and with houses of worship. I want to tell you that I don't want county government to send a message -- to send the wrong message to our religious community. I believe we should send a message of inclusiveness, because I so appreciate, as I know my colleagues do, the role that religious institutions play in our County. They are directly connected with our County's success, and in fact with the changing demographics of our county. So I hope that on this matter we will send that message of inclusiveness. We've made some complicated decisions in zoning and land use and forest conservation and afforestation and special protection areas and master plans. We're always balancing a number of different considerations here on all of these issues. But what has been perceived in direct response to our decision with respect to the RDT zone is something that I think, if my colleagues heard it and I know many of you have, doesn't convey the message that I would like us to convey with respect to how Montgomery County Government views religious institutions, people of faith and our houses of worship. I don't know what the debate on this -- what turn the debate on this Bill is going to take. There have been a number of assertions made from the community, and I just am sorry as the Examiner reported the other day that we find ourselves in a situation where environmentalists are pitted against the religious community. That's an unfortunate turn in Montgomery County. That is not the way I would like to see us have dialogue in the community, and it's certainly not the -- it's certainly not -- it doesn't bode well for future conversations in this regard. We have people of goodwill on different sides of this discussion. But, I must say, I'm concerned when a religious institution is compared to Dan Snyder, for example. We have great disparities in resources here. The way that religious institutions raise money is through the goodwill and participation of people who put a few dollars in a collection plate or who agree to tithe or agree to make regular contributions to churches. The decision was made by the State originally, and in the State Forest Conservation Act, and then the County Forest Conservation Act was modeled after it, that institutional uses served important public policy purposes; whether they were group homes, whether they were boys and girls clubs, whether they were government facilities, whether they were schools, whether they were daycare centers. And I would just submit that religious institutions serve those important public policy purposes as well. And as Chairwoman Floreen has pointed out, we are still imposing an afforestation requirement; it's just a requirement that's at the same level as other institutional uses. Now there is some difference by and large between churches and other institutions. By and large, you look at institutions like private schools or private foundations, they have more resources than



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churches do to buy a lot of trees, plant a lot of trees, potentially buy more land in order to meet the afforestation requirement. Every additional dollar of burden that we place on a church is a dollar that that church has to ask its congregants to contribute. It is not an easy thing to raise money for a church. They don't come with deep pockets. They don't come with massive institutional resources. They don't come with large endowments. And yet we're imposing a larger burden on them, the same burden that we would impose on residential developers than we are on other institutional uses. The County Attorney opined in 2001 that this was illegal. Let me just ask Mr. Royalty; do you believe it is legal today?

Mr. Royalty,
No, my opinion has not changed.

Councilmember Leventhal,
So we've -- so the County Council has heard since 2001 a consistent opinion from the County Attorney.

Mr. Royalty,
Absolutely. Yes.

President Praisner,
Actually, gentlemen, this is a nice debate, but the question in front of us is whether it should be an expedited Bill or not.

Councilmember Leventhal,
I'm only going to speak once, Madam President.

President Praisner,
Oh, you only want to speak once, okay.

Councilmember Leventhal,
I said I would speak to the merits -- I said I would speak to the merits of the Bill.

President Praisner,
I just don't want it to go on and on and on.

Councilmember Leventhal,
Well none of us do.

President Praisner,
You can continue speaking, I'm just -- and you indicated you're only going to speak once; that's fine. But the question in front of us was expedited Bill or not.

Councilmember Leventhal,
I said I would introduce the issue of the expedited Bill and then I would speak to the merits of the Bill. And I'm respectful of my colleagues' time. So we've heard from the



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County Attorney that the decision in 2001 was illegal, which was the County Attorney's position at that time. The County Executive has requested that we act; and the Planning Board has moved -- has suggested that it supports the direction that the County Executive and the County Attorney are going. We know that our legal staff disagrees with the County Attorney, so, you know, lawyers disagree. We know that there is an applicant here who has retained its own counsel, and we anticipate, according to the County Attorney's opinion, that should the Council not act in factor of this Bill that we will be sued and we will lose. Am I correct, Mr. Royalty?

Mr. Royalty,

That's correct. I can't guarantee that they'll sue, but I can make predictions about whether we'll win or not.

Councilmember Leventhal,

I just want to say to my colleagues, I don't want to be in the position today of saying no again to this church or to other churches because I believe on the merits that the County Executive is correct. I think Mr. Royalty is correct. I think the Planning Board is correct. But more than that, I don't want every single opportunity to say to the religious community, to say to houses of worship no, no, no, no. I don't like being in that position. It was difficult the decision we made in the RDT zone. I believe we were right. But every since that time I've been working more closely with religious institutions. And the last point I'll make here is Mr. Faden states that religious institutions are uniquely favored in law because by right they may build in any zone. And that they are not required to go through a special exception. And that therefore they are so favored that we ought to disadvantage them at least once in law. Since our decision on the RDT zone, I have been working very closely with the specific religious institutions. They are not favored. They may not build in any zone. The law may allow it with respect to zoning, but the law does not allow it with respect to special protection areas, the water and sewer envelope, master plan requirements, parking requirements; it is enormously difficult for a church to expand or build a new facility in Montgomery County -- enormously difficult and I know this from firsthand experience because I have been working with churches. They may not build in any zone. It isn't so; in fact, it's enormously hard. And the result if the Council should not pass this Bill today is that some churches will decide that Montgomery County is not a friendly environment. And churches will decide to locate instead in Prince George's or Frederick counties. I would just say to my friends in the environmental community if you think it is good environmental policy for people of faith to commute long distances on Sundays or Saturdays or Fridays; we may be talking about synagogues or mosques. Because we're not friendly to them in Montgomery County and therefore they've got to travel from their home in Montgomery County to Frederick or Prince George's, I would submit that as not good environmental policy. And I truly wish that the environmental and religious communities had been able to find common ground on this. I'm sorry that we seem to face divisive debate over this. Thank you.

President Praisner,

There are no further lights.



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Councilmember Berliner
There will be.

President Praisner,
Councilmember Berliner.

Councilmember Berliner,
I would like to explore with staff and Council the issue of expedited Bill versus not expedited Bill and just have a series of questions with respect to it. One, can you tell me whether -- how it became an expedited Bill?

Mr. Faden,
The committee voted to make it one -- to add an amendment to this bill; it did not start as an expedited Bill.

Councilmember Berliner,
So the County Executive did not request it as an expedited Bill?

Mr. Faden,
He did not.

President Praisner,
He requested that we deal with it.

Councilmember Berliner,
Okay.

Mr. Faden,
The issue came up in committee partly on staff's recommendation because the one particular applicant who's been the primary proponent has a pending subdivision application which is ready to go and would be held up for another 91 days if they waited for this Bill to become law on a non-expedited basis.

Councilmember Berliner,
And if we -- let's keep playing that out. I don't know what our schedule is with respect to our looking at the Forest Conservation Law. But assume for purpose of this conversation that we were to do so in the next 90 days, and that we were to pass this Bill today. Let's assume we were to pass this Bill on a non-expedited basis. And then we're to address the larger question of the PIF's; whether or not for -- I'm one of those who's very interested in exploring whether or not the decision that was made as I appreciate it back 1992 to treat PIF's separately for purposes of our reforestation law is still an appropriate public policy. You know, assume that this Council were to arrive at a conclusion that it isn't and it wants to treat all PIF's like anybody else with respect to this; notwithstanding the contribution that PIF's make to our community. If we were to pass this today and eliminate the distinction between PIF's and other kinds of



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development, what would be the status with respect to those that we are addressing today?

Mr. Faden,

Well it depends on what took effect when. If this Bill were a non expedited bill, it will take effect 91 days after the Executive signs it. If you pass another Bill during that period of time -- .

Councilmember Berliner,
On a non-expedited basis.

Mr. Faden,

On a non-expedited basis, you'd then have a certain -- that Bill will take 91 days -- take effect. So they'll have a period of time when this Bill would be in effect and then could -- as you say could be later modified. So it would be in effect -- the state of the law as expressed in this Bill could be in effect for a limited period of time under the scenario you suggested.

Councilmember Berliner,

And we would then -- would we explicitly have to address the issue of grandfathering those that were in effect in process if we were to eliminate distinction?

Mr. Faden,

You probably would have to at least look at that issue depending on how many cases were out there. Well depending whether there are any cases out there. You probably would have to consider, as you would any way -- I mean if you get a comprehensive Forest Conservation Bill, which is what the Planning Board is working on now, you'll have to look at grandfathering any case because various aspects of that Bill affect pending projects.

Councilmember Berliner,

An certainly if we were to adopt this measure today on a non-expedited basis, it would be an indication that there were five people and five members of the Council in favor of treating particular projects that are in the queue now in a different manner from that which we want to have go forward on an ongoing basis.

Mr. Faden,

I would agree.

Councilmember Berliner,

I shared -- I wanted to explore this obviously my bias with respect to reforestation. It should be clear. I do believe that we need to reexamine. I asked Mr. Faden, my staff asked Mr. Faden how did we come to this point and Mr. Faden said, "I don't recall," and then we asked the Planning Board how did this come about in 1992, and it was because it was a recommendation from the State Model Code that was adopted and the County adopted this State Model Code back in 1992. Apparently not with a lot of discussion



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with respect to the kinds of issues that are today much more important to us with respect to our tree canopy. I'm working closely, as I know my colleagues know, with Councilmember Elrich with respect to saving trees on individual lots that today don't have the kind of protection that I believe that are necessary. So I share all of that because I am somebody that is committed to increasing our County's canopy, and believe that we need as a matter of public policy to do so across the board. On the other hand, I quite frankly do not accept the notion, as our colleague has said, that we ought to treat religious institutions separately today. I don't get why religious institution is somehow treated differently than any other PIF. I need to always go back to what is a PIF --Private Institutional Facility. I don't accept with the greatest respect to Mr. Faden that the distinctions that are true with respect to religious institutions therefore make a policy decision with respect to reforestation different. So I don't get the linkage. I also accept, as my colleague has articulated, that we had particular concerns in 2001 that are also no longer true. So we had a public policy driver that is not as prevalent today. We had a public policy linkage that quite frankly I don't accept. We have a very serious constitutional challenge that whether we would win or lose, I quite frankly don't like having to be in that position of fighting that kind of fight. I don't think it's a good fight for Montgomery County. I don't think it's a good conversation to have. So -- and I think we ought to raise the bar for all of them. But we ought to do it for all of them as opposed to singling out religious institutions in a way that I perceive to be in effect discriminatory. And I believe ultimately will be deemed to be unconstitutional. But -- so, on that -- for all those reasons, I would support this Council going on record as supporting the County Executive's desire. He did not ask for this Bill to be expedited. I don't know if we have six votes to approve it expedited. But I'd be open to conversations either way with respect to how we should treat that issue, preserving for the future our ability to raise the bar across the board.

President Praisner,

Let me make a comment before more some lights -- oh some more lights have gone on. I think some colleagues have made reference to our conversation about the rural RDT zone and the AG reserve. And I think that is a very logical and legitimate conversation that comes from our most recent conversation. However, I think and I made the comment earlier, I found as I went back and looked at Circle 2, which is the table, the table is extremely confusing. Because when you refer to agricultural and resource areas I think those who live in rural cluster zones or rural zones do not consider themselves either agricultural or certainly not a resource area. I find the language very troubling as far as being anything that anyone could understand who is a layman trying to look at this area. And while I do agree that actions as far as water and sewer extensions in the RDT zone do have implications for a whole host of individuals and institutions, it does not address the issue of our rural zones. The AG reserve is not a place that gets plopped down immediately next to urban or heavily suburban development. It is a transition process and our master plans and our zones call these wedges, extreme wedges, green wedges; and they have assumptions about development and have assumptions about impacts that, I think, we have ignored in our conversations about the RDT zone. And so, I expect and hope when Park and Planning Commission comes back to us with conversations about forest conservation and any issues that our land



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use will recognize our wedges and (inaudible) concepts and also the transitional zones that are more rural and include farming in many ways in many cases, and need to be considered from an impact and need to be considered from a tree canopy, tree coverage and environmental issues as well. But as I indicated earlier, I -- when I looked at this chart, thought I don't know how any religious institution or anyone else, other than a developer or lawyer looking at this chart, can feel very comfortable about understanding what the impacts or implications of these charts are. So I just wanted to make the comment, and I hope that when we look comprehensively at the Forest Conservation Law, we will strongly consider and, in fact, I suggested to Mr. Faden that I will see that the Council considers the recommendation made to us by folks who testified from Parker in answer to Mr. Elrich's question about their being more comfortable with the requirement if it extended to all institutions rather than isolating out the religious institution the way it does. Council Vice President Knapp.

Vice President Knapp,

Thank you, Madam Presidents. I just have a nuts and bolts question as to whether or not we vote on whether or not this is an expedited Bill. I don't -- so as it's in front of us right now -- .

President Praisner,

It is.

Vice President Knapp,

It is an expedited Bill?

Mr. Faden,

It is a committee recommendation that it be amended to be an expedited Bill.

President Praisner,

So the Bill in front of us is an expedited Bill.

Mr. Faden,

Right. The committee Bill is.

Vice President Knapp,

So the Council would then vote to say whether or not it agrees for it to be an expedited Bill?

Unidentified,

You could amend (inaudible).

Mr. Faden,

You could amend the committee -- exactly.

Vice President Knapp,

We could actually -- we could vote on the Bill.



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President Praisner,
You can't vote on the Bill. You have to vote on the pieces of the Bill, one of which is the expedited measure.

Vice President Knapp,
So we vote on whether or not it is expedited and then that would be -- the would -- it would be expedited or not, and then we would vote on the Bill itself.

Mr. Faden,
You could.

President Praisner,
Correct.

Vice President Knapp,
I just wanted to make sure.

President Praisner,
Yeah. And it would seem to me like any amendment or any action it is with the pieces of the Bill first that you deal, not with the Bill overall. Councilmember Floreen.

Councilmember Floreen,
Thank you, Madam President. I just wanted to comment particularly on your remarks about the challenge of reading the current rules. I'd just point out the work that is going to be entailed in taking a look at the Forest Conservation Law. I know that some of our colleagues are hard at work at this; they've been so for a while. And I know Park and Planning has been working with them very closely. It's going to be a challenging effort I think to straighten all of this out. Those of us who look at this -- I -- honestly can't tell you what it means either. And so there's going to be a fair piece of change involved in just adding some clarity to this, much less looking at the range of issues I think folks are taking a peek at in the forest conservation environment. We have been asked more or less -- the T&E Committee has been asked to more or less keep the fall open for this. And so I think we're going to be spending a fair amount of time trying to work through this. And of course we look forward to that, but I don't think it suggests it will be an easy task or a rapid effort. And that's why really in the committee we thought -- look -- we think this is a narrow issue associated with the bigger issue as far as conservation and the like. And I will note for the newer members of the Council that Park and Planning did tell us several years ago that 47% of this County is preserved in green space one way or the other through easements, park land, agricultural reserve and the like. So we are making progress on this issue no matter what. The question is dealing with the details, which, as you all know, remains a challenging effort. But the issue of fairness of approaching the bigger picture with a level playing field, I think, is what approval of this Bill will get us. And frankly, doing it rapidly at least would allow for the community-at-large to receive the message really that Mr. Leventhal has laid out. We are going to look at -- take -- as we work through these kinds of land use issues, we're going to treat



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churches fairly and put them in the appropriate categories based on the appropriate policy analysis, but not isolate them out by virtue of being religious institutions. I think that is a good message to send at the beginning of any whole scale review of what's going to be a rather complicated process. And I think it will be helpful to us all if we take this up in an expedited fashion as the committee has recommended. But I am fine, Madam President, in isolated out that part of the committee recommendation and then going to the other parts. That is a fine solution if there's a concern about clarity.

President Praisner,

Well if there is interest in doing that, that's what I suggest. Any amendments to the Bill come before we deal with the overall Bill. Councilmember Berliner.

Councilmember Berliner,

Thank you, Council President. I get clarification from the Chair with respect to her desire. The Chair of the committee is the Chair suggesting that she would, in fact, support removing the expedition from this Bill?

Councilmember Floreen,

Yeah. But I'm (inaudible) having that as a separate committee recommendation.

Councilmember Berliner,

Okay, and then my question to you, in light of the fact that the County Executive, who is deeply invested in this issue, did not recommend it be expedited. The committee's thinking with why it needed to be expedited is what again?

Councilmember Floreen,

Well as I said, I think -- I'm not sure we spent a lot of time articulating a policy, but I'm not -- let's see, when did it come over. It came over in May, this recommendation from the County Executive. So it is not as if this amendment has been rushed -- that anyone has rushed to judgment on it. There has been a fair amount of opportunity for public attention to that in any event. And there are pending cases that can benefit from some clarity on the issue. And no matter what, as I said earlier, the review of the work that you and Councilmember Elrich are working on will take a bit of time. May we visit these things? No doubt. I don't know what you are talking about. But at least we'll deal with all those issues on a level playing field, which I think will make it somewhat easier to isolate it out -- to not have to deal with this issue separately. Apparently -- and I was interested in hearing what the Planning Board said; I hadn't seen that memo from them. But our view is let's do this part to give some clarity. Otherwise, there will be more of an overlap in terms of attention to these issues later in the fall, depending upon when you all get your recommendations together and something gets introduced. It is set for public hearing and we get to work sessions. I don't know when that will be, but it will take a bit of time seeing as the fall agenda is not going to be a light one already.

Councilmember Berliner,

If I could, Council President?



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President Praisner,
Yes, go ahead.

Councilmember Berliner,
I would appreciate a hearing from staff as well as to what other public policy implications there are with respect to the expedited nature of the Bill. Again, assume with me that the Council will be taking up the reforestation issue on a comprehensive basis, and may make different decisions with respect to it. So I'm just struggling with this -- the committee's recommendation on expedited. I understand now more fully why the committee felt the way it did, which is that it has applications pending. The Planning Board, as I appreciate it, wants the guidance as how to deal with these applications. I believe there may be a majority of the Council that has concluded that it is not appropriate to treat religious institutions differently until such time as we address all of it. But it requires six votes for expedited, and I assume that it has some other implications, or maybe not, but I just want clarification.

Mr. Faden,
No, at this point, the only -- well the two implications are that it makes the Bill effective on the Executive signature, or whenever it's designated and that is what's designated in the Bill. And it does require six votes. There is no other legal implication. The only other legal implication for an expedited bill is that you can have a shorter hearing notice, but since the hearing has already happened that's moot here.

Councilmember Berliner,
Thank you.

President Praisner,
Okay. Are there any motions before us?

Councilmember Floreen,
Well, Madam President, I guess what I'm -- the committee -- I think the committee is okay with addressing the expedited nature of this separate from the committee recommendation.

President Praisner,
Would you like to have a straw vote on whether or not -- ?

Councilmember Floreen,
Why don't we do that, because -- ?

President Praisner,
Well let me deal -- the only problem is we can't deal with a straw vote and use the straw vote to remove a piece of the legislation unless Mr. Faden tells me I can.

Mr. Faden,



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At this point, you have -- I'm trying to think of ways out of this. You have the committee Bill in front of you. It is under the rules of the committee Bill is the Bill that's here. It would take an amendment to change it. You could certainly have an amendment to modify that part of it.

President Praisner,
But I need a motion and an amendment.

Mr. Faden,
You need a motion and an amendment, which would be a five-vote amendment.

President Praisner,
Right, I understand that.

Councilmember Leventhal,
Let me try this, Madam President.

President Praisner,
But I need to have a motion to deal with that.

Councilmember Leventhal,
I'm going to try this. I'm going to move that we make the committee's recommendations severable. That is that we vote on the committee recommendation to be expedited as a separate matter from the committee's recommendation for the Bill. I think that's in order. So that a vote in favor of the committee's recommendation on the expedited Bill would be a vote in favor of that piece. The only other risk there and maybe it is not bad, is that if we want to have a separate vote on expedited, someone has to move to remove the expedited designation, and then if you support the expedited designation, as I do, you would have to vote against one's own motion so.

Councilmember Floreen,
Is that the only way to isolate that out, Mr. Faden?

President Praisner,
My -- here's what we'll -- .

Unidentified,
(Inaudible) the last session (inaudible).

President Praisner,
I know. Isn't this nice? Is this nice? The -- if the committee requests that we vote on the pieces of the Bill individually, rather than on -- .

Councilmember Floreen,
That's the Bill that -- yeah.



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Councilmember Leventhal,
Yeah, it's called requesting a division.

President Praisner,
So we could divide the Bill in front of us.

Mr. Faden,
I think you can.

President Praisner,
By starting with the first piece of the Bill, which is the committee's change beyond what the legislation coming before us is; and that is the effective date of the legislation. So all in favor of the committee's recommendation to expedite the Bill do so by raising your right hand? Councilmembers Leventhal, Berliner, Knapp, Floreen and Ervin. Those opposed? Andrews, Trachtenberg and Praisner; the Bill will continue to have an expedited date associated with it.

Councilmember Leventhal,
Okay, well now, Madam President -- .

President Praisner,
Now we'll move to the Bill.

Councilmember Leventhal,
I think it's in order to remove -- well I think it's now in order to move to remove the expedited designation, and I so move.

President Praisner,
All right, there is a motion to remove the expedited Bill that has been seconded. All in favor of removing the expedited Bill -- language from the Bill, please indicate by raising your right hand? Leventhal, Andrews, Berliner, Knapp, Praisner and Trachtenberg. Those opposed? Ervin and Floreen. The legislation in front of us is now as it came over from the County Executive without the expedited version, and we will call the roll.

Council Clerk,
Ms. Ervin.

Councilmember Ervin,
Yes.

Council Clerk,
Ms. Floreen,

Councilmember Floreen,
Yes.



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Council Clerk,
Ms. Trachtenberg.

Councilmember Trachtenberg,
Yes.

Council Clerk,
Mr. Leventhal.

Councilmember Leventhal,
Yes.

Council Clerk,
Mr. Andrews.

Councilmember Andrews,
Yes.

Council Clerk,
Mr. Berliner.

Councilmember Berliner,
Yes.

Council Clerk,
Mr. Knapp.

Vice President Knapp,
Yes.

Council Clerk,
Ms. Praisner.

President Praisner,
Yes. The legislation carries 8-0, and it is not an expedited Bill. It will go into effect 90 days after signed by the County Executive, I believe; correct? Okay, we'll now move to District Council Session. We are introducing Zoning Text Amendment 07-10, Central Business District Zones Amendments, sponsored by the Council President at the request of the Planning Board and Councilmember Floreen. I need a motion, Councilmember Floreen -- .

Councilmember Floreen,
Yep.

President Praisner,



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To adopt a resolution to establish a public hearing for September 11, at 1:30. It has been moved by Councilmember Floreen; seconded by Councilmember Trachtenberg. All in favor? It is unanimous among those present. Introducing Zoning Text Amendment 07-11, Upper Paint Branch Special Protection Area Standards, sponsored by Councilmembers Praisner, Trachtenberg, Andrews, Elrich and Ervin; the resolution to establish the public hearing for September 11, at 1:30. Is there a motion?

Councilmember Ervin,
So moved.

President Praisner,
Second by Councilmember Trachtenberg. All in favor of the resolution? It is unanimous among those present. Intro -- yes.

Unidentified,
(Inaudible).

President Praisner,
Okay. Councilmember Berliner is present. Introduction of Zoning Text Amendment 07-12, Accessory Structures Size, sponsored by Councilmember Ervin and Council President Praisner; the resolution to establish the public hearing for September 11, is for 1:30 p.m. Councilmember Ervin, you want to make a motion?

Councilmember Ervin,
So moved.

President Praisner,
Second by anyone?

Councilmember Leventhal,
Second.

President Praisner,
Second by Councilmember Leventhal. All in favor of the resolution? Unanimous among those present. Introduction of Subdivision Regulation Amendment 07-03, Preliminary Subdivision Plans Approval, Applicability of Growth Policy Amendments Extension. Public hearing action is scheduled for September 11, at 1:30 p.m. Is there a motion?

Councilmember Trachtenberg,
So moved.

President Praisner,
Councilmember Trachtenberg. Is there a second? Councilmember Andrews, did I hear you? Yes, okay. All in favor? Unanimous among those present. We now move to Resolution to Amend the FY08 Transportation Fees, Charges and Fares, and we'll turn



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to the T&E Committee Chair -- I told you it was T&E morning, Nancy; Councilmember Floreen.

Councilmember Floreen,

Well that's a point of view, Madam President. Well, best that can be said here is that the T&E Committee, despite Mr. Orlin's best efforts, is recommending that we go back to the beginning -- to where we were with respect to transportation fees, charges and fares prior to the -- basically this brings us back to where we were prior to the budget action.

Mr. Orlin,

In regard to the charging hours.

Councilmember Floreen,

In regard to the charging hours. This will basically, just so you know, delay the ability of the parking lot districts -- and I don't think we have the full -- yeah, there it is. If you look at page three of the memo. Basically, doing this will cause a loss in the revenue assumptions in the budget of \$767,910 plus or minus, as you know, it is an estimate. What we verified in the committee meeting yesterday is that this will not affect the ability of the parking lot districts to function; it will delay the payment to the general fund and various funds for advances that have been provided. And there is a cost, Glen, is it \$48,000 the mass transit number that will have to be supported by the general fund transfer; is that the number?

Mr. Orlin,

What it would mean is that the Mass Transit Fund Reserve will be smaller by \$48,180.

Councilmember Floreen,

Will be reduced.

Mr. Orlin,

As is the General Fund Reserve will be smaller by \$394,800. The General Fund Reserve would be smaller by \$394,860; this is the chart on the bottom of page three.

Councilmember Floreen,

In the general fund, yeah.

Mr. Orlin,

And the Mass Transit Fund would be smaller by \$48,180.

Councilmember Floreen,

Basically, it will put off a focus on these issues until a later date. Mr. Orlin had a nice variety of solutions that would require us to do other things that would generate public outcry. And we said to Mr. Orlin, you run for office. We said, good try.

Councilmember Knapp

He's too close to retirement.



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Councilmember Floreen,
Yes, that's coming up.

President Praisner,
Let's treat him with care and tender care.

Councilmember Floreen,
We know Mr. Orlin has a plane to catch. In any event, to the committee recommendation is to leave the hours of charging as they were previously, and to work with the County Executive to take a bigger picture look at this issue later in the year. And that's the committee recommendation.

President Praisner,
Vice President Knapp.

Vice President Knapp,
Thank you, Madam President. I just have a real nuts and bolts issue as it relates to how this actually gets recorded in our budgetary activities, because as we went through this year's budget, we found some things that were kind of hiding under rocks that we hadn't accounted for appropriately. And so I just would like to get some sense as to -- we have a running tally of what the Reserve Fund total is and when we do any supplemental appropriations. Would this now be recorded as effectively a supplemental appropriation or a reduction in that overall reserve number?

Mr. Farber,
Well, I think as Mr. Orlin said there are specific revenue losses and we have to take account of those.

Vice President Knapp,
I just want to make sure -- .

President Praisner,
He just wants to know where.

Vice President Knapp,
I want to make sure do we actually get it on the list someplace that either Chuck is tracking downstairs or the -- so that we -- because we have kind of our numbers that we've already projected for FY08, and I just want to make sure that we just get this identified or indexed in the right place, so we know when we get to next year's budget discussion -- .

Mr. Farber,
We will make that adjustment -- we will make that adjustment in the table that we regularly send you.



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Vice President Knapp,
Okay. Good. Thank you.

Mr. Orlin,
I would just point out that the table you normally get has to do with actually appropriations and actual spending authority. It rarely deals with revenue -- well it would be a different kind of entry, but we certainly under the point.

Vice President Knapp,
I just want to make sure at least as a notation some place that we at least know -- in order to go back and look and make sure that we check to see what the number really is.

Mr. Orlin,
We will make that adjustment.

President Praisner,
Well there is a generally category where we show fees and issues, and also there are general actions that are transfers to different accounts. And there's also the policy as far as the reserve for each of these funds that are all things that we track. I want to thank the T&E Committee for -- and Councilmember Ervin's comments in the packet about the fact that we have to look at this comprehensively. Otherwise, we're going to be around and around. The one thing that I would -- looking for a parking space. The one thing that I would certainly hope would be looked at is not only -- maybe uniformity is not what we're looking for but some relationship to the availability of parking garages versus on-street parking and where and how. And I hope at one point we'll also look at visibility of what the rates are, because I still have the problem trying to stand on my tippy-toes to see when I try to deal with a meter what the numbers and the times are. And I don't think I'm that short. I see no other lights, so the T&E Committee's recommendation is in front of us. All in favor?

Councilmember Floreen
Is this expedited?

President Praisner,
It goes into play as soon as we -- it goes into pay as soon as we play.

Unidentified,
Didn't want to make it retroactive?

Councilmember Trachtenberg,
It goes into play as soon as we pay.

Unidentified,
Can we expunge the previous?



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President Praisner,

It is unanimous among those present. Fortunately the Council is now in recess until 1:30. Thank you very much.

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TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

Councilmember Marilyn Praisner, President
Councilmember Phil Andrews
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg

Councilmember Michael Knapp, Vice-President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal



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1 Council President Praisner,
2 Good afternoon, ladies -- excuse me. Excuse me. Good afternoon, ladies and
3 gentlemen. This is a Public Hearing on the Supplemental appropriation to the
4 Department of Public Works and Transportation's FY08 Capital Budget and amendment
5 to the FY07-12 Capital Improvements Program for State Transportation Participation in
6 the amount of \$14,463,000. Action is scheduled following the hearing. Before beginning
7 your presentation, please state your name clearly for the record. We have one speaker
8 signed up, Douglas Rosenfeld. (Pause) I do not see Mr. Rosenfeld, so the hearing is
9 closed; and I will turn it over to the Chair of the T&E Committee, Ms. Floreen.

10
11 Councilmember Floreen,
12 We're back again, Madame President.

13
14 Council President Praisner,
15 I know. It's the T&E day.

16
17 Councilmember Floreen,
18 Yes, just wrapping up a few little details. This appropriation is consistent with the
19 Council's action previously where we've approved a Bonding Program with a reliable
20 source of revenue through the Liquor Fund to generate income for capital programs
21 associated with transportation projects on our priority list where there is an agreement
22 between the County and the State. In this case, you will see, we have an agreement
23 that's been entered into between Montgomery County and the State of Maryland for
24 basically the County to advance fund the intersection improvement at Montrose Road
25 and Rockville Pike. That has long been a concern of the community about the continuity
26 of constructing that Montrose Parkway and its connection with Rockville Pike. And,
27 wonderfully, we now have an agreement to get that in place on schedule and as hoped
28 for. So basically the one change that the Committee has made here with the attentive
29 eyes of Mr. Orlin is to make it clear in the PDF -- and do you have that in here, Glenn?

30
31 Glenn Orlin,
32 Circle 17.

33
34 Council President Praisner
35 Yeah. It's also part of the record when you say it, Nancy.

36
37 Councilmember Floreen,
38 When the County is repaid the money for this advance, that it go back into the State
39 Transportation Participation Program so that we can continue to use this to advance our
40 transportation initiatives. That's the only change recommended by the Committee.

41
42 Council President Praisner,
43 And I see the Director of the Department nodding his head, so I assume he both
44 understands and appreciates the significance of our request. Councilmember Leventhal.



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1
2 Councilmember Leventhal,
3 I just wanted share with the Council President and my colleagues and anyone who may
4 be watching that I have been complying with the Council President's directive to
5 purchase at the County liquor stores; and that last night on the way home from our
6 meeting, I wanted to bring to everyone's attention that my favorite tequila, Jose Cuervo
7 Black, is on sale this month. It's \$19.99 for a 750-milliliter bottle, and I just wanted to
8 bring that monthly special to everyone's attention.

9
10 Council President Praisner,
11 I want to thank my colleague for that moment of advertisement and encouragement. He
12 is correct that I've indicated that in order to keep our liquor bonds viable, that activity
13 would be very helpful.

14
15 Councilmember Leventhal,
16 Just wanted let you know, I'm doing my part.

17
18 Councilmember Andrews,
19 He'll spare no expense.

20
21 Council President Praisner,
22 (Laughter) Councilmember Floreen. Did you want to add anything? Otherwise, I'm going
23 to go to Vice President Knapp.

24
25 Councilmember Floreen,
26 No. We are pleased that we have found a good, stable fund to support this initiative.

27
28 Council President Praisner,
29 Vice President Knapp

30
31 Council Vice President Knapp,
32 Thank you, Madame President. I very much concur with what the T&E Committee has
33 put in place – that as we get repaid from the State, that it goes back into the State
34 Transportation Participation PDF. I was at a Council Government's retreat over the
35 weekend, in which many of my colleagues joined us; and we talked about dedicated
36 funding for Metro, which the State has indicated that they're going to identify as a single
37 line item within the Consolidated Transportation Plan in their budget this year. And one
38 of the participants in the meeting asked, "That's great, except right now the State
39 doesn't have any money for transportation," which means that presumably if the \$50
40 million gets identified, then it's coming out of something else. And the secretary had
41 indicated that they're assuming that the State Government is going to do something to
42 address transportation funding this session, at which point the \$50 million will be new
43 money. I guess the question I have is for Dr. Orlin or for the Department, "Is this money
44 that the State has programmed for us to actually be repaid in the out years, or is this



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1 contingent upon additional resources actually being added to State transportation
2 activities?"

3
4 Art Holmes,
5 (Initial part of response unheard because of no microphone.) -- and we have a payback
6 schedule.

7
8 Councilmember Leventhal,
9 This is the money –

10
11 Council President Praisner,
12 Yeah. It's already in their budget; it's just in the wrong year.

13
14 Council Vice President Knapp,
15 Right. We're just accelerating it for two years.

16
17 Art Holmes,
18 We're bringing it forward.

19
20 Council Vice President Knapp,
21 Okay.

22
23 Glenn Orlin
24 They are going to pay us the money they don't need anymore because we're paying
25 money earlier. So that's it essentially.

26
27 Council President Praisner,
28 Well, but the reason why we're doing it is to accelerate the timing; they were already
29 going to fund it.

30
31 Councilmember Berliner,
32 Right. That's right.

33
34 Council President Praisner,
35 Councilmember –

36
37 Council Vice President Knapp,
38 And this is good, so I'm glad we did this; I'm glad it's primed the pump. I would also
39 hope, though, that our residents recognize that this is one little piece of transportation
40 that needs to get done; and we still need a lot more money from the State ultimately to
41 address the rest of our transportation needs. And so I want you to advocate vociferously
42 as the State either goes into special session or looks in the coming months to address
43 our transportation shortfall needs.



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1 Council President Praisner,
2 Councilmember Berliner.

3
4 Councilmember Berliner,
5 I want to thank the Committee and the Executive for bringing this matter to our attention
6 and the opportunity to act on this. I had been among those years ago that actually was
7 not in favor of this particular highway. I felt that it was a very expensive piece of road
8 that could go to nowhere. In fact, that is what the nightmare is of that community now, is
9 perceiving that they were going to have this incredible disruption to their life and that the
10 principal benefit was not going to be realized because traffic was just going to be
11 backing up at Rockville Pike. And now we have accelerated the timing with respect to
12 that, such that we will at least get the benefits that this project -- or at least a good
13 portion of the benefits that this project was designed to achieve and, therefore, helping
14 level the scales a bit for those whose lives have been so disrupted by it. So I commend
15 the Committee and the County Executive for this.

16
17 Councilmember Floreen,
18 Let me just comment. There'll be subsequent chapters in this road as we continue its
19 connection farther east.

20
21 Council President Praisner,
22 Okay. The item is before us; it would require six votes. All in favor of accepting the T&E
23 Committee --

24
25 Jennifer Barrett,
26 Ms. Praisner, if I could -- could I speak on this item?

27
28 Council President Praisner,
29 Sure.

30
31 Jennifer Barrett,
32 Okay. That's why I'm here. I just wanted to comment on a fiscal matter related to the
33 supplemental.

34
35 Council President Praisner,
36 Fiscal matter?

37
38 Jennifer Barrett,
39 Yes.

40
41 Council President Praisner,
42 Okay.

43
44 Jennifer Barrett,



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1 We support the supplemental appropriation, of course, because the County Executive
2 did send it out; but the change that Mr. Orlin made to the packet I view as a fiscal matter
3 in that he changed the PDF to add the funding in the end, and I simply wanted to
4 communicate to the Council that that's just not how we had envisioned the program to
5 work – the add back. It wasn't an oversight on our part. It's a difference in how Mr. Orlin
6 has amended the PDF from how the Executive sent it over. So I thought I should at
7 least bring it to your attention.

8
9 Council President Praisner,
10 Well, I'm not sure I understand. It's money that we had in the budget, and we're using it
11 in a different year. So –

12
13 Jennifer Barrett,
14 Well, the Executive Branch right now had envisioned this program as being when we
15 got repayment back from the State, we would draw down and pay down the outstanding
16 liquor revenue bonds. We were planning to issue these as variable rate demand
17 obligations such that we could pay them down at anytime, which would restore the
18 transfer to the General Fund.

19
20 Council President Praisner,
21 I understand, but I don't think the Council shares that view; and since we're talking
22 about an FY11 or 12 action. We've got many capital budgets to go before we get to that
23 issue.

24
25 Jennifer Barrett,
26 I understand; but it is a change from what the Executive sent over, so I thought I should
27 at least clarify that. Okay. All right.

28
29 Councilmember Floreen,
30 If I could comment, Madame President, the whole point of this effort is to actually create
31 new additional improvements in the Transportation Program, not just to move the deck
32 chairs around, as it were. And –

33
34 Jennifer Barrett,
35 That's where we differ.

36
37 Councilmember Floreen,
38 That is apparently the case. So why we would borrow money just to be repaid shortly
39 and not create a net benefit is obviously a policy conversation we will continue to have.

40
41 Jennifer Barrett,
42 Yeah. I can be happy to address that when you're ready.

43
44 Councilmember Floreen,



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1 Yeah – look forward to that.

2
3 Council President Praisner,

4 And my point, of course, is that we are actually talking about out years; and this is an
5 issue of intent for future repayment, and there'll be plenty of time to have that
6 discussion.

7
8 Jennifer Barrett,

9 But it is a change to what the Executive recommended, so I just thought I'd draw that to
10 your attention.

11
12 Council President Praisner,

13 Okay. All in favor of the action including the document as prepared by our staff? (Show
14 of hands) That is unanimous among those present. Thank you all very much. Before I
15 go to the next Public Hearing, I believe Councilmember Ervin had a point of personal
16 privilege from this morning. It's the Admission and Amusement Tax Legislation.

17
18 Councilmember Ervin,

19 I wanted to be recorded on the record in the affirmative on that.

20
21 Council President Praisner,

22 That item was item Number 9, Expedited Bill 16-07. Okay. Good afternoon, ladies and
23 gentlemen. This is a Public Hearing on a Special Appropriation to the FY08 Operating
24 Budget of the Offices of the County Executive to implement provisions of the Road
25 Code in the amount of \$200,000. Action is scheduled following the hearing. Before
26 beginning your presentation, please state your name clearly for the record. And I
27 believe we have one speaker, Cheryl Cort, from the Complete and Green Streets
28 Group.

29
30 Cheryl Cort,

31 Thank you. I actually have my colleagues with me, Diane Cameron from the Stormwater
32 Partners and Anne Merwin from the Potomac Conservancy; and perhaps you could split
33 our three minutes into one minute each.

34
35 Council President Praisner,

36 No. They didn't sign up; you did.

37
38 Cheryl Cort,

39 Okay. All right. Well, I'm here on behalf of –

40
41 Council President Praisner,

42 You may testify.

43
44 Cheryl Cort,



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1 Okay. Thank you. I'm here on behalf of the Complete and Green Streets Group. I work
2 with the Coalition for Smarter Growth, but I'm representing a much broader group –
3 including the Washington Area Bicyclists Association, Montgomery Bicycle Advocates,
4 Potomac Conservancy, and the Stormwater Partners. And we want to thank the Council
5 for your actions in adopting the Road Code Bill. We really appreciate your actions on
6 this, and we also appreciate the instructions that you provided to the County Executive
7 on how to develop the regulations for this. We are here because we are concerned
8 about language in the Special Appropriation which seems to assign authority or
9 responsibility for overseeing the whole process to DPWT, which we think really defeats
10 the intention of creating a multistakeholder process that's managed directly out of the
11 office of the County Executive. And so we would ask that you remove the language that
12 assigns responsibilities related to overseeing the process of developing the regulations
13 and managing the contractors from the Special Appropriation, and just delete that
14 language. We certainly think that DPWT has an absolutely essential role to play in
15 developing these regulations, but so do other agencies. And really, it's only through a
16 more balanced kind of process that's directly managed by the Executive do we expect
17 to have a cutting-edge Road Code that includes all the newest thinking in terms of multi-
18 modal transportation planning and also stormwater management. So that's really what
19 we're hear to say. Thank you.
20

21 Council President Praisner,
22 Thank you very much. Okay. That concludes that Public Hearing, and I will turn to the
23 T&E Committee. You're excused, Ms. Cort. Thank you.
24

25 Councilmember Floreen,
26 Thank you, Madame President. The T&E Committee recommends approval of the
27 Special Appropriation to get this work underway. As you all know, we've spent time a
28 long time working through the Road Code; and the details are the last challenge, which
29 is what this group will manage. I'm delighted that the County Executive has proposed a
30 solution that will involve a facilitator and consultant services to get this work done. So
31 the Committee recommends approval of this as submitted. Since we've received a lot of
32 e-mails on this subject and a lot of concern about what Ms. Cort has referred to, I will
33 point out that what I understand the \$200,000 fund is the services of the professional
34 facilitator and the engineering consultant services. Isn't that right, Mr. Orlin?
35

36 Glenn Orlin,
37 Yes.
38

39 Councilmember Floreen,
40 Is that right?
41

42 Glenn Orlin,
43 Yes.
44



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1 Councilmember Floreen,

2 Yeah. So given that, the language that raises concern from the community's perspective
3 is the language after the first sentence in paragraph number 3 in the Resolution -- that's
4 on Circle 2 -- which says "A new, full-time permanent position senior engineer will be
5 created in the Department of Public Works and Transportation." It goes into some detail
6 as to how the Department is going to address this. I'm going to propose that given the
7 concern that's been raised, that we delete that language from -- the rest of that
8 paragraph, and just stop paragraph 3 at the word "parties." That will achieve the
9 Appropriation's purposes to be clear about what these dollars are for. The rest of the
10 language, frankly, is surplus as to the point of the Resolution. And I think it would clarify,
11 from some folks' perspective, the roles of the various parties.

12
13 Council President Praisner,

14 Given that we have the Chair and a member of the T&E Committee making that
15 recommendation, it will be my determination that this is now the Committee's
16 recommendation. So the Committee's recommendation with that modification to the
17 Resolution is before us. Are there any comments that anyone would like to make? Let
18 me make a point that I'd like to make. I appreciate the concerns that we've received in
19 the multiple pieces of paper that have come to the Council; and I believe my staff asked
20 LIS and also my staff distributed those so that most councilmembers should have had
21 an opportunity to see the documents. While I am sensitive to the concerns that have
22 been raised by the community on this issue, I think there is a misunderstanding about
23 the structure of government and the way in which personnel are hired and where their
24 "pin," so to speak, rests and what their employment categories are. And I think there's a
25 big difference between the Department having an engineer hired and paid for and
26 management of this function given the County Executive's determination that this will be
27 a multi-department, multi-group involvement. But we still have a Department which has
28 responsibility and would be hiring engineers that would be hiring this individual. And this
29 is not a permanent function that will go on forever, I would hope. In which case, if that
30 engineer is hired and in the future has a job -- some additional functions in the future --
31 they'll be within the Department. So I am sensitive to the concerns that have been
32 raised, but -- we have to give some folks an opportunity to have this happen first before
33 we see that there are problems. You have the Council's attention. You have multiple
34 organizations involved in this process. You have the Executive's commitment to an
35 open process. Let's give it a chance to operate before we bombard the Council with
36 concerns that haven't even occurred as yet. So that's just my perspective.

37
38 Councilmember Floreen,

39 If I might add, Madame President, folks do need to -- we did set this up so that there will
40 be reports to the Council; and at the end of the day, the Council will approve the final
41 product. So there's going to be some very significant oversight of this process, and I'm
42 hopeful that everyone will be satisfied with the result. It isn't going to be easy -- that much
43 we know; but I think there will be plenty of opportunity for engagement and lots of
44 opportunity for access to the oversight effort.



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1
2 Council President Praisner,
3 Okay the Supplemental is before us for \$200,000. The Committee recommends, with a
4 modification to the Resolution, approval of that. it requires six votes. All in favor? (Show
5 of hands) It is unanimous among those present. Thank you.

6
7 Councilmember Floreen
8 With that, Madame Chair, the T&E Committee is going to take a break.

9
10 Council President Praisner,
11 The T&E Committee rests. Mr. Holmes.

12
13 Art Holmes,
14 I guess I'm a little slow here today. Are we taking out the language that Ms. –
15 Council President Praisner,
16 The Committee recommended taking out the language in the background information;
17 that's all that we've done – is taken out the background information.

18
19 Edgar Gonzalez,
20 Is the senior engineer position –

21
22 Council President Praisner,
23 The position is still there.

24
25 Art Holmes,
26 Okay.

27
28 Edgar Gonzalez,
29 It is still approved.

30
31 Councilmember Leventhal,
32 No. The language is not in the Resolution for the senior engineer. But the Special
33 Appropriation was not required to fund the senior engineer. So the Resolution is silent
34 on the senior engineer. Correct.

35
36 Edgar Gonzalez,
37 We understand that. The only question is, Is the Council then authorizing us to add one
38 position to our complement in the Department so that we can hire somebody –

39
40 Councilmember Leventhal,
41 The Council has not spoken on that matter.

42
43 Glenn Orlin,
44 We don't have the authority to do it, frankly.



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1
2 Council President Praisner,

3 We don't – I was just going to say, we don't – all we do is appropriate money. Your
4 packet indicated how that position was going to be handled this year, and it also gave
5 you some additional funds. Beyond that, the Council is not speaking.
6

7 Glenn Orlin,

8 Your only requirement is that there's a report that comes over from OMB – or from OHR
9 or OMB frequently which talks about new positions which are created, and it notes
10 whether or not it was in the initial budget or not. And so it will be reported in that; that's
11 it.
12

13 Councilmember Floreen,

14 We have been so informed.
15
16

17 Council President Praisner,

18 Okay let's move to the next item, 19.1, which is the Executive Reg on Workforce
19 Housing. Councilmembers should have received the material late yesterday. The PHED
20 Committee discussed the Executive Regulation on Workforce Housing. As you know,
21 this is Method 1 Regulation; which means that the Department has been waiting for
22 approved regulations in order to implement a piece of legislation. And the Workforce
23 Housing Program – yeah, it was added with the addendum this morning. The Workforce
24 Housing legislation relates to our central business district areas, and the legislation
25 passed under the previous Council. There were some differences between the
26 Executive Branch and the Legislative Branch on the Workforce Housing Regulations
27 dealing with the previous administration, and some back and forth. Based on the
28 challenges that we all acknowledge are associated with Workforce Housing and
29 implementation, and the question most especially related to the pricing of those units
30 and the impacts on that, the Department has sent over an Executive Reg that bases the
31 pricing for the Workforce Housing units on the affordability to the resident or occupant --
32 not calculating it on the cost of the construction unit. That's different from what we've
33 seen in the past with the MPDU legislation, and we've tried as much as we can to
34 parallel the two pieces of legislation. But there are differences, and there may be
35 differences in the future; and also there may be efforts to modify the MPDU legislation.
36 As you recall, our Office of Legislative Oversight report that we just received
37 recommends our looking at MPDU units and pricing them related to the occupant cost
38 affordability, not to the construction cost; but that issue is not before us at this point. The
39 second piece of the Regulation deals with the percentage distribution as it relates to the
40 sets of pricing tiers. And you have in the Regulation three different percentages that are
41 used; and the Committee in its view at this point -- Councilmember Floreen and I,
42 Councilmember Elrich was absent – is that we have little experience. But given the
43 request and the good faith effort to deal with these units, we're going to see what
44 happens and monitor the progress. One-third of the units would be priced for a



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1 household earning 75% of the average median income; one-third would be priced at
2 90% of the average median income; and one-third would be priced at those earning
3 110% of the average median income. That means that there's a range as far as what it's
4 offered to; and that information, I believe, is on page 5 of the Council's packet. There
5 were other issues that the Park & Planning Commission sent to us that would amend
6 the regulations. A couple of those in our view are really editorial changes -- one making
7 sure that "planning area," the appropriate term is used, and taking out the word "annual"
8 as it relates to the Growth Policy. The major issue is that the Planning Board be sent a
9 copy of any decisions by the Director to revise or amend an agreement to Bill Workforce
10 Housing. And that too seems to be more common sense than requiring major
11 modifications to the Regulation. All three of those changes the Director of the
12 Department has agreed to. And whether we wait for other modifications to the
13 Regulation to make that change or we make that change separately this fall is really a
14 matter of preference and time, because the procedures will be and the approach will be
15 one that encourages and establishes that communication. So the Committee believes
16 that the Department in good faith has been working on this issue and that it's important
17 if we're ever going to try to see if we have Workforce Housing to implement the
18 regulation -- which, again, as I said, is Method 1. So on page 7 and 8 are the other
19 pieces of the agreement or the modifications or, I should say, the recommendations that
20 are reflected in the Regulation that the Committee had already discussed as it relates to
21 the processes that will be used for Workforce Housing. So with that in mind, the PHED
22 Committee 2 - 0 with Councilmember Elrich recommends approval. Councilmember
23 Berliner.

24
25 Councilmember Berliner,

26 Thank you, Council President. I want to commend the Committee. I recall being briefed,
27 as I know my colleagues were, by OLO with respect to the results of their analysis,
28 which were quite shocking, I think, for those of us that are trying to promote affordable
29 housing in terms of the cost of these units. Particularly in my community, in Bethesda,
30 some of the numbers I saw were beyond reach for anything remotely close to a
31 moderately-priced unit or a working-priced unit for working families. So I think this is a
32 needed reform. My understanding, Mr. Nelson, is that you are intending to come before
33 us with some proposals of a similar nature with respect to moderately-priced dwelling
34 units?

35
36 Richard Nelson,

37 The Executive Branch is working on some modifications to the MPDU Program
38 consistent with the recommendations in the OLO report that you received recently.

39
40 Councilmember Berliner,

41 And if we could turn to page 3 -- it's Circle 3 -- looking at the dollars now for our
42 Workforce Housing. We are talking about units that the minimum would be \$162,000 for
43 a one-bedroom, ranging up to \$250,000 for a one-bedroom. And then for a four
44 bedroom, \$231,000 minimum up to \$361,000. Can you give us today some idea of what



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1 those numbers are "unreformed," if you will, under current market structure? How high
2 are these units going for?

3
4 Unidentified Male Speaker,
5 These are workforce numbers which are aimed at hiring people under the MPDU
6 program. I know. Since we're just dealing with this, do you have any numbers for a
7 workforce as it gets--?

8
9 Council President Praisner,
10 Well, we don't have any workforce.

11
12 Councilmember Berliner,
13 Okay. So we don't have any Workforce Housing now. So this is -- thank you.

14
15 Richard Nelson,
16 I'm sorry. I misunderstood your question.

17
18 Councilmember Berliner,
19 No. No. That was a fair observation. I appreciate that.

20
21 Linda McMillan,
22 I think the first place we'll be able to see this will be actually in the Lot 31 as it comes
23 forward because you'll be able to see the market rate, the workforce prices, and the
24 MDPU prices as well. And you'll get the comparisons, I think, that you're looking for out
25 of that kind of a model.

26
27 Councilmember Berliner,
28 Yes, thank you. And in the MPDU program, we do have a comparison that you could
29 make with respect to this; so why don't you share with us what you've seen in that
30 regard? I assume it is comparable to what OLO shared with us.

31
32 Unidentified Male Speaker,
33 Yes. We worked with OLO to provide -- that was based on real life data. What they
34 found primarily is about one quarter -- about 27% of the MPDUs -- were priced above a
35 level -- using the construction cost method -- were priced at a level that would be
36 unaffordable to families within the income levels served by the MPDU program. And
37 most of those were in high-rise construction. So those numbers translate to a
38 construction cost model of around \$180,000 to approaching \$200,000 for a high-rise
39 unit, depending on the size. But if you would look at it from an affordability standpoint,
40 what would actually be affordable to a family to finance, you would be more down in the
41 \$145,000 to \$160,000 range. So there is a discrepancy there of around \$30- to \$50,000.

42
43 Councilmember Berliner,
44 Thank you. I appreciate the clarification.



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1
2 Council President Praisner,
3 Okay. The Executive Regulation is before us for action recommended by the PHED
4 Committee. All in favor of adoption? (Show of hands) That is unanimous among those
5 present. Thank you very much. Yes. Go ahead.
6

7 Councilmember Floreen,
8 I just wanted to comment on this. I just wanted to say, I would not be surprised to see
9 this come back to us. I'm willing to accept your numbers for now. But as Mr. Berliner has
10 sort of investigated a little bit, whether or not this is going to be doable remains to be
11 seen. So I hope we can go forth and prosper, but I am anxious. We do not have much
12 comment on this, and it's pretty academic right now. That was an issue I think both Ms.
13 Praisner and I shared in our Committee session; and I just wanted to make that point
14 because I think the message is, "Let's make this work." And if it doesn't, we're going to
15 have to figure out how to make it work. Thanks.
16

17 Council President Praisner,
18 Okay. Thank you very much. We will take a brief recess and reconvene at 2:20
19 downstairs to meet with the Office of Intergovernmental Relations; and be back up here
20 to accommodate staff from the Department of Health and Human Services and their
21 schedule; and be back up here at 3:30 for discussion and action on the resolution
22 related to the Certificate of Need Project. So see you soon.
23

24 (Recess)
25

26 Council President Praisner,
27 Okay, ladies and gentlemen, we're back for our last item before the Council adjourns.
28 This is discussion and action on the Resolution to request the Department of Health and
29 Human Services to issue a Request for Expression of Interest -- commonly called an
30 REOI -- for a benchmark study of Montgomery County's five hospitals, with a focus on
31 Certificate of Need projects. And, Uma, if you'd to join us at the table, I think that would
32 be helpful. And I will turn it over to the Chair of the Health and Human Services
33 Committee to work us through this -- not work us over, but work us through the process.
34

35 Councilmember Leventhal,
36 Thank you, Madame President. I am as eager to adjourn for the summer as I know my
37 colleagues are, and so I have no interest whatsoever in prolonging this discussion. The
38 Health and Human Services Committee has been monitoring very closely the plans of
39 several of our hospitals -- but first and foremost, Washington Adventist Hospital. And
40 over some period of time, a concern was expressed that if we were to participate
41 constructively in the State Certificate of Need process, we were not in a position to do
42 so. We don't have adequate planning staff within the Department of Health and Human
43 Services to compile an analysis that would enable us to weigh in. And with the support
44 of the Council President, we had a thorough discussion before the full Board of Health,



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1 which explained to us how the Certificate of Need process works. And we learned in the
2 course of that discussion that there is very much anticipated a role for a County
3 Department of Health; that a County Department of Health is automatically assumed to
4 be an interested party; and that the Department of Health has special standing in the
5 Certificate of Need process. It was the view of a number of us, and it is ultimately the
6 view of the majority of the Health and Human Services Committee, that we need to
7 acquire outside resources to get us where we need to be so that we may participate
8 constructively and provide constructive input into the Certificate of Need process. I'll
9 share with you a conversation I had with my wife last night. My wife has an employee in
10 her daycare. This is a woman who does not own an automobile and who walks to work.
11 She has four children, all of whom have diabetes. And my wife asked me, "If Maria's
12 children have an emergency after the hospital moves, where will they go?" Maria lives
13 on Maple Avenue in Takoma Park in an apartment building; she doesn't have a car. And
14 unfortunately, because of her children's health conditions, she has had to walk with
15 them to the emergency room at Washington Adventist Hospital on multiple occasions. I
16 have appreciated working with Washington Adventist Hospital over many years now,
17 and I have appreciated that Washington Adventist Hospital under its current plan
18 proposes to leave behind at its current location on Carol Avenue in Takoma Park some
19 health facilities -- yet to be determined -- through what I commend the hospital is going
20 to be a very open dialogue with the community. During the Health and Human Services
21 Committee's discussion of the need to acquire outside resources to compile the data to
22 enable us to analyze the effect of Washington Adventist's move and other potential
23 Certificates of Need that may come down the pike, Mr. Berliner pointed out that this
24 study, if we are to do a study of Washington Adventist's move, might assist us and the
25 hospital in determining what assets it leaves behind or what assets it establishes at its
26 current location. And I appreciate that. I think that is, one, a potential value to be derived
27 from this effort. Now, I've been in close communication with the County Executive. I've
28 been in close communication with Uma Ahluwalia; and let me just say publicly, it's a
29 great pleasure working with Uma. She's very responsive, enormously smart, and it's just
30 been really a pleasure working with her. And so what I've gotten the County Executive
31 and Ms. Ahluwalia to agree to is a first step. And that first step is this Request for
32 Expression of Interest that the Council President has discussed and which is called for
33 in this Resolution. What will happen? What will happen is, a document will be released
34 by our Department of Procurement; that will be widely published, and it will call for
35 responses. And then we will get responses from whomever chooses to respond --
36 whomever believes himself or herself competent to respond. It might be a university; it
37 might be a school of public health; it might be a private consulting firm. We don't know
38 who will respond. You don't know until you put the call out there. Then, when we get
39 responses, both departments -- our Procurement Department as well as our Health and
40 Human Services Department -- will review the responses. From that we will learn a
41 number of things. And from identifying what kind of help we think we can get, it will
42 assist us to formulate what kind of products we think we will produce. The Resolution
43 states that if Washington Adventist Hospital is first to submit a request for a Certificate
44 of Need, that request would be the first to be analyzed. But once we've identified the



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1 universe of potential providers of these analytical services, there are other products that
2 may come down the line. We know that Suburban Hospital may submit a Certificate of
3 Need at some point. We know that Montgomery General may submit a Certificate of
4 Need at some point. And then we know -- and we've had quite a bit of conversation
5 about a very broad survey of health conditions, health disparities, health demographics
6 in the County called a "Community Health Improvement Program" (CHIP). So what the
7 Executive Branch has asked for is enough latitude in this Request for Expression of
8 Interest that they don't have to send out two or three more in the near term -- that they
9 can get the lay of the land as to which universities, private consultants, others might be
10 out there. And then that will enable the Executive Branch downstream to issue an RFP -
11 - which is a different publication, which is more specifically targeted, and which requires
12 an appropriation. It requires spending authority. So we're proceeding in this way
13 because we don't yet know if or how much money we want to spend. So rather than
14 issuing a specific RFP specifically for a study of Washington Adventist Hospital as some
15 of my colleagues had expressed a desire for, we're proceeding in a two-step process.
16 Because we don't know how much the study would cost, we don't want to appropriate
17 money and find either that it's more than we needed to spend or less than we needed to
18 spend. We're beginning in this fashion. The County Executive has indicated his support
19 for this approach. A majority of the Health and Human Services Committee has
20 recommended this approach. It will require a second step; and we will stay in close
21 communication with our Procurement and Health and Human Services Departments to
22 find out who responds, how does it look, and then do we need to structure the RFP. And
23 some of that will be contingent on the timing of Washington Adventist Hospital's plans
24 and the other aspects in this rapidly-changing environment. The Health and Human
25 Services Committee is dedicated to a comprehensive look at access to healthcare. This
26 is about access to healthcare. The concerns that have been raised about what will
27 happen if Washington Adventist moves are valid and significant from the standpoint of
28 access to healthcare. Those were the concerns that animated me, and I know other
29 colleagues, to say, "Let us study this so we that can weigh in at the appropriate time in a
30 Certificate of Need process." As we raise those concerns, what will it mean to the
31 affected community if the hospital moves? The hospital came back and said, "Well,
32 what will it mean if we don't move? What would it mean if we stayed where we are and if
33 there were long-term economic repercussions to the hospital if we stay where we are?"
34 That, it seems to me, is also a valid question; but we're not addressing that question
35 today. At the time when a request for a Certificate of Need is submitted by Washington
36 Adventist Hospital, the Council and the Executive will work together; and either we will
37 or won't craft an RFP, and either we will or won't appropriate money to fund an RFP.
38 That's a decision for later. I know that there are different views on that matter. I know
39 there are different views about what exactly might be studied. I have strong views about
40 it; I know my colleagues do as well. But the decision for today is simply whether to issue
41 this Request for Expression of Interest at no cost. We're not appropriating any money
42 today, and we're not making any commitment to any provider of analytical information.
43 We're simply trying to survey the universe of potential providers to see who's out there.



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1 That is the recommendation of the majority of the HHS Committee, and that is the
2 proposal now before the County Council.

3
4 Council President Praisner,
5 Councilmember Trachtenbeg.

6
7 Councilmember Trachtenberg,

8 Thank you, Madame President. I appreciate the remarks of the HHS Committee Chair;
9 and as I said to you at the one or two worksessions where this was discussed in recent
10 times, that I was confident that over time we would be able to find common ground. I
11 don't know that given our discussion a week ago you necessarily shared that opinion;
12 but I did state it at the time, and I appreciate the movement of the language. In other
13 words, you know, what we've got before us today really looks different than it did a week
14 ago. And I think I made myself pretty clear in the Committee and, of course, in Council
15 last week that my concern was twofold: That I wanted to make sure that the focus of
16 whatever we did, even anything relating to an REOI, was specifically on the role of all
17 the hospitals and not one; and that we didn't place a primary focus on economic vitality
18 of any institution. And that has always been what I've been interested in -- making sure
19 that whatever we did, in my mind it was very much a public health assessment -- which I
20 know is something that we need to do for a lot of reasons -- not just because of the
21 Washington Adventist move, but I really feel that that must play, in time, an integral role
22 in decisions that we make around program funding and even really about grant awards.
23 But that's another conversation for another day. And again, I appreciate the movement
24 in refining language here. And at this point, the only part of this that I still have some
25 discomfort with is the last line in the action section which is specific that the REOI
26 should demonstrate a competency to develop a Community Health Improvement Plan
27 for Montgomery County. As I said from one of the first meetings that we had here at the
28 Council and I sat on HHS, I don't have a problem with developing a strategic plan for the
29 Department and even in the work that we do with our community partners. Clearly,
30 that's what public health is all about. But what I've got difficulty with in this line is that it
31 suggests that that is going to influence the decision that we make on any contract we
32 enter into on the evaluation of the role of the hospitals here in the County. In other
33 words, it would almost seem to me that whoever was going to do that evaluation of the
34 role of the hospitals -- the health needs here in the County and the role that the
35 hospitals play in delivering those services -- that they would also perhaps have to have
36 a competency around developing a strategic plan. And I just don't see us at that point
37 yet for a lot of different reasons -- not just because it has been my experience in
38 conversation with the other side of the street that there isn't the commitment from the
39 Executive or the Department around a CHIP -- not yet. That's not to say there won't be;
40 but it doesn't seem like we have consensus to do that. But I also feel that in order to
41 take advantage of a strategic plan in the most efficient manner, we really need to have
42 systems in place. And it looks to me like we're in the process of developing a lot of
43 them. Yesterday we had a rather intense and excellent presentation to our Committee
44 on the integration of case management within the Department -- again, under the



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1 leadership of Uma, our new Director. And it was very much a confirmation that she
2 understands, recognizes as long as – and I believe her support staff also recognize the
3 significance of developing systems, including technology, which the Department really
4 does not have down pat right now. And so it's for that reason that I have some
5 hesitation with putting this language in the REOI that is before us this afternoon.

6
7 Council President Praisner,

8 Okay. Councilmember Leventhal, I believe, wants to comment. And then I don't know
9 about other councilmembers, but I have some questions.

10
11 Councilmember Leventhal,

12 Okay. Well, you know what I wanted to do was to get a study of the impact of
13 Washington Adventist Hospital's move. And I still want that. I think we need that. I don't
14 think we have the competency within County Government today to assemble that, and
15 the State law clearly calls on us to have a role if we seek a role. And I think the potential
16 ramifications of Washington Adventist Hospital moving for access to healthcare are
17 significant, and we should study them. So that's my bottom line. Now, that view was not
18 shared by the County Executive. And the County Executive and I talked, and Uma and I
19 talked; and I was persuaded, and I am persuaded now, that issuing one REOI to survey
20 the potential universe of professional planners and health policy analysts made sense.
21 And so it was at the request of the Department that we structured it this way -- that there
22 would be one single effort to identify who's out there who might provide these services.
23 Do we need a Community Health Improvement Plan? Well, I have to tell you there are
24 components of it that I strongly think we need. I don't necessarily know what a
25 Community Health Improvement Plan would consist of. The last administration – the
26 Duncan administration was prepared to procure one and worked with the Health and
27 Human Services Committee on the prior Council to structure the questions that we
28 would ask. And I think that they were valid and important questions; and I think we need
29 answers to them. Just a couple of examples. We have these three minority health
30 initiatives: the African American Health Program, the Asian American Initiative, the
31 Latino Initiative. They were created in order to address disparities in health between
32 different demographic groups in our community. We don't have current data as to the
33 status of those disparities; and, indeed, I'm not entirely clear that there are dramatic
34 disparities for all of those groups or even for the different subcomponents of those
35 groups. So I think we would benefit from current, contemporary data about health
36 disparities; we lack that today. We don't have a real up-to-date estimate of how many
37 residents in Montgomery County lack health insurance; we're making it up. Okay?
38 We've got a formula that we go on by guesswork to estimate how many residents of
39 Montgomery County actually lack health insurance. That's a critically important target
40 figure as we design our healthcare strategy, to get better data on that. So those are just
41 two examples, and there are many other examples. I don't know if we have – well, we
42 probably do have up-to-date infant mortality data because you can get that from the
43 morgue. But we need to know, in a more comprehensive way, where we stand in the
44 year 2007. So I have been comfortable with the concept of a Community Health



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1 Improvement Plan. And I was comfortable when Uma said to me, "Let us just issue one
2 REOI, and it would cover all of these things." And I remain comfortable with that, but
3 maybe Uma would like to comment on that.

4
5 Uma Ahluwalia,

6 Well, good afternoon. Thank you all for your kind words. I do want to respond to a few
7 things. I want to respond to some of the comments that Mr. Leventhal made and then
8 respond to you that there are a few points that I want to make on behalf of the County
9 Executive. Mr. Leventhal and the County Executive did meet, and there was an
10 agreement to proceed with the REOI. What happens after the results come in of the
11 REOI around the next steps, I think, are still open for discussion; so I do want to make
12 that point. While we've said that there will be potentially other Certificate of Need
13 projects, I don't want this resolution to assume that in every instance we want to go out
14 and procure services to do an assessment either if we want to evaluate each one on its
15 individual merits. And it will be up to the County Executive to weigh in and make
16 decisions on which way he wants to proceed. The third point I want to make is time is
17 something that causes all of us considerable anxiety, even as we set up this two-step
18 process. One of the reasons, to respond to Councilmember Trachtenbeg, we asked for
19 this to be a comprehensive REOI request to see what capacity exists out there is
20 because – and you all well know that the Request For Proposal process on behalf of the
21 Department takes a long time. And each time if we have to go out and do an RFP
22 process, we lose several months in the process. And if we were to have a select list of
23 providers who have the competencies that we think and would put them on this
24 preferred provider list, then we don't have to -- according to our Director of Procurement
25 -- we don't have to keep going out and soliciting from a larger universe. We can limit our
26 procurement to these folks who might bring the capacity; and we can also request
27 based on task order as opposed to different pieces of the work that get farmed out that
28 have to do with chunks of the CHIP as opposed to having to do a single solicitation. So
29 there are significant advantages from a contracting standpoint for us to do this, which is
30 why we asked for this flexibility. Having said that, I think I do want to point out that time
31 is somewhat challenging. If in fact the Adventist Hospital were to put their Certificate of
32 Need application in the spring of next year, it leaves us with less time. The REOI likely
33 will happen around September 30th. We're not going to get the results back from the
34 entire REOI solicitation before the 30th. And then we have to make a decision whether
35 to go forward with the next step or not, which I think will likely take some days for that
36 conversation to evolve.

37
38 Council President Praisner,

39 By next step you mean a contract to get input on the CON.

40
41 Uma Ahluwalia,

42 Right. If we are to go out and do an RFP of some sort – limited or otherwise – that in
43 and of itself is going to be a lengthy process. And let's assume that the decision is to go
44 forward – and I don't know that it will be. I'm not making that assumption; I'm just saying



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1 in the event that we decide to go forward and there is to be an RFP, we're looking at
2 something like November before there is an award and the data gathering process
3 begins. So I'm just putting that out there to say that time is challenging in this process
4 and to put that out there. And then, of course, there's the fact that there will be have to
5 be an appropriation to support the work. So I believe that I've responded to all of the
6 concerns.

7
8 Council President Praisner,

9 I think so, too. There are a couple of lights. As I indicated, I had some questions; but
10 Councilmember Berliner as a member of the Committee also wants to comment. Roger.

11
12 Councilmember Berliner,

13 Thank you Council President. And I was in the majority in this conversation because I,
14 too, believe that we should be in a position to decide whether the County has an interest
15 worth fighting for, and that we won't know that until we do this kind of analysis. It does
16 not prejudice whether we get involved, from my perspective. But it at least allows us to
17 be in a situation where we can make an informed judgment. So from my perspective
18 and as one who's been involved in these type of administrative matters -- again in the
19 context of utilities, but we actually franchise hospitals in much the same way that we do
20 utilities -- I believe that it is our duty as a County to understand what the implications are
21 for itself prior to that process unfolding, so that we otherwise would be entirely
22 dependent on the evidence submitted by the applicant or otherwise submitted by the
23 State in response, or the questions in response. And I don't believe that's a tenable
24 position for us to be in. It doesn't prejudice whether or not the proposed move would, in
25 fact, have a negative impact on our community. It would simply give us a basis to make
26 such a conclusion. So I am very supportive of it. I am supportive of it; and quite frankly I
27 kept looking at the Community Health Improvement Plan and going, "Why is this here?"
28 because I don't see it as being in relationship to, if you will, the narrower question as it
29 relates to the CPCN. And so as I appreciate what you are suggesting here is that this is
30 really for your administrative convenience, not because you see these two issues
31 interwoven.

32
33 Uma Ahluwalia,

34 Oh, we want to keep them as separate as possible. Yes.

35
36 Councilmember Berliner,

37 Okay. And in fact, you could have one applicant come in that is very strong with respect
38 to one piece and one applicant come in or one response that's very strong with respect
39 to the other, decide to go with the applicant for the first phase as it relates to the
40 Certificate of Need question and have parked, for future consideration, the larger
41 studies as I appreciate it.

42
43 Uma Ahluwalia,

44 That's correct.



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Councilmember Berliner,

Okay. Thank you. Now my final question is in the Committee, Mr. Chairman, we had conversations explicitly with respect to the questions that had been posed by Adventist Hospital's president that he thought ought to be part of the consideration that was reflected in the Committee print. And there was agreement by, I believe, the two of us that those questions were appropriate questions. And including, as you observed, the issue of the facilities that would be in place at the end of this process -- what facilities would be recommended. The way our action item is drafted does not reflect that; so I didn't know whether -- it was my assumption that we were giving a little more explicit direction as a function of the conversation we had in Committee with respect to it. So I'd appreciate the Chairman's observations as well as to what could be expected.

Councilmember Leventhal,
Sure.

Council President Praisner,
Go ahead.

Councilmember Leventhal,
Madame President. Well, what I'd request of Uma, which I'm sure she'd do even if I hadn't requested it, is that she stay in very close contact with the HHS Committee and that she advise us as to the responses to the REOI. And what happened in the last administration -- when the Duncan administration was ready to go out on the street with an RFP for the Community Health Improvement Program, the HHS Committee actually reviewed that RFP before it was to be released. Then Mr. Leggett was inaugurated, and that RFP was interrupted and never was issued. But my hope would be that the HHS Department and the Office of Procurement would give us that same opportunity and that we could constructively collaborate on the language in the RFP. There's been some, I think, misunderstanding among colleagues as to what was the purpose of asking questions; and I've tried to explain it, you know, as best I understand it. I mean, we started out -- I and others -- started out asking questions about, "If the hospital moves, what happens to the people who are left behind?" And the hospital said, "Okay. If you're going to study that go ahead; but you might as well ask, What if we stay? Might there not be bad consequences from that?" That seems to me a legitimate question also. And so if indeed the time comes -- which it hasn't come yet -- that Washington Adventist Hospital submits a request for a Certificate of Need, and that at that time if we get to a place where we believe there are vendors competent to assist us in assembling this information; and we sit down together in the HHS Committee and we come to the conclusion, as a Committee, that we should issue an RFP; then at that point, presumably, we would collaborate with both Uma and Mr. Dice on the drafting of the RFP. Then at that point, presumably, we would collaborate with both Uma and Mr. Dice on the drafting of the RFP. And at that point, not today, we would come back to the question of, "What are the questions to be analyzed?" with specific reference to



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1 Washington Adventist Hospital's Certificate of Need request. So I guess in answer to
2 Mr. Berliner, that decision about exactly what questions will be asked in a study of
3 Washington Adventist's move is a decision yet to come before the County Council.
4 We're not making that decision today. I thought it was a fairly simple matter; but
5 colleagues have expressed concerns about it, and so we're taking this first step. We're
6 not actually commissioning a study of Washington Adventist's move today; that would
7 come later.

8
9 Uma Ahluwalia,
10 If I may, the only thing that we're seeking out of the REOI is the capacity and the
11 competence of vendors to do a health planning assessment, if you will. It's from a
12 planning standpoint -- do an assessment.

13
14 Council President Praisner,
15 Well, but that's not the question or the comment that Councilmembers Leventhal and
16 Berliner were discussing; they're not talking about health planning.

17
18 Uma Ahluwalia,
19 No.

20
21 Council President Praisner,
22 They're talking about the first phase which relates to the analysis of the Certificate of
23 Need and potential hospital impacts -- that's not planning.

24
25 Uma Ahluwalia,
26 No. You're right. What I'm saying is, we are looking for capacity and competence
27 around sort of both the economic analysis and the health analysis -- from a health
28 economic standpoint -- and then futuristic sort of projections -- the ability to do some
29 projections and predictability work. Not necessarily responding to specific questions --
30 that's not what the REOI solicitation is about. It's more to try to see which vendors have
31 capacity to do the kind of work that we're asking of them.

32
33 Councilmember Leventhal,
34 But again, the second decision that would come before us, Roger, would address more
35 specifically what are the issues related to Washington Adventist's application for a
36 Certificate of Need; and at that point, we'll be back with these same issues. Do we only
37 look at what happens if it moves? Do we not look at what happens if it stays? We're not
38 making that decision today. Does that help, Roger?

39
40
41 Councilmember Berliner,
42 Yes. I guess in my limited experience in these matters, when we are asking the
43 applicant to demonstrate its capacity, it is a capacity in what? So part of the equation, of
44 course, is the extent to which any hospital is asked to bear the burden of



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1 uncompensated care. It is a major driver in this conversation. Well, it is a major driver in
2 terms of people's desires to move or stay, or their fears with respect to what will happen
3 to them. And so I want to understand whether or not as part of the capacity that we will
4 be soliciting, are we soliciting capacity that will allow us to understand the impact of
5 those issues?

6
7 Uma Ahluwalia,

8 The issue, really -- when the State came down and talked with you all from the
9 Healthcare Commission and from the Cost Review Commission, there is a lot of public
10 use data out there that responds to much of the questions that are being raised. Really,
11 in large part what we're looking for -- we do not in the Department have the capacity to
12 analyze that data and package it in a way that will make helpful recommendations for
13 you. And so in large part -- and Mr. Leggett's very committed that whatever we do, it be
14 very defensible, very solid. Whatever products are coming out in the end, it is very likely
15 that there will be multiple folks who will look at that information and have strong opinions
16 one way or another. And therefore whatever the source of the data and the
17 interpretation of the data that it has to be very in defensible if, in fact, he makes a
18 decision to proceed. So what we're really looking for is the capacity on the part of
19 bidders/vendors to be able to take that public use data and demonstrate capacity in
20 analyzing and packaging it and being able to then provide the information back to
21 decision makers in a way that will be helpful and be defensible. And that's the capacity
22 we're looking for right now. That's really the line of inquiry that the REOI will carry. It's
23 not going to be anything more specific than that at this point.

24
25 Council President Praisner,

26 I wanted to comment, because I indicated I had some questions. And I'm very glad that
27 my colleague and member of the Committee went first because some of the questions
28 that I have -- or had -- or still have revolve around the points that Councilmember
29 Berliner raised and the responses and solicitation. It seems to me, two things. One, an
30 REOI -- what the responses will be will be a response from someone who wants a
31 contract by demonstrating their capacity to respond to the information that we would
32 need as a government. And that's going to be based on their expertise and participation
33 or experience in analyzing the kind of information and perhaps bringing skills to us that
34 will highlight things that are not self-evident when you analyze that information. And it is
35 as much a presentation of presentation skills as it is of content skills, it seems to me.
36 That relates to the Certificate of Need issues, which appear to be the most pressing.
37 And my initial question related to the questions because the questions are not ones
38 we're seeking answer to. The questions, as originally highlighted, are possible focus
39 areas that someone in responding might highlight that their analysis would include it and
40 that they see these pieces as being something that a government would need to know
41 in order to evaluate. Most, if not all of that information -- except financial information,
42 which may be proprietary -- would not be available or would be available depending
43 upon how it's presented. The analysis of that information raises some concerns to some
44 councilmembers, I think. But if it is owned by someone else, I think it's a little different



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1 than if it's owned by us. So therefore the absence of the questions, I think, is an
2 improvement on the Resolution at this point.

3
4 Uma Ahluwalia,
5 We think so, yes.

6
7 Council President Praisner,

8 The second piece though that I must say I have a concern about deals from my years of
9 having been on the Health and Human Services Committee. It was the Council who
10 originally, even to having a contractor to help us write and then having Council staff and
11 the Committee work on the writing, that developed the Health and Human Services
12 Policy to begin with. And it was always anticipated that a strategic plan for the
13 Department would follow that development of the policy. And, to some extent, that is
14 more than long overdue; but there are a variety of reasons why it isn't here -- one of the
15 most important of which I think speaks to Councilmember Trachtenberg's points which
16 she, I think, has quickly identified and is aware of. And that's the issue of the absence of
17 technology that adequately provides us the information to analyze exactly whom we are
18 serving. And when I have a department head -- not you -- but previous department
19 heads sit in front of me and tell me they don't actually know or cannot respond to how
20 many families we're serving, and where the redundancy or duplication of service to a
21 family rather than individuals is, and how many of those individuals are repeats versus
22 single-visit issues, and how people enter our systems -- that's a problem. And I don't
23 think we as a government can identify where we're going with healthcare in the future if
24 we don't know where we are now. So I think that's a challenge for us all. I agree very
25 much with Councilmember Leventhal's point about the three initiatives we have and not
26 being clear about -- and needing to have some vision about where that goes in some
27 plan. We also have, I think through the Primary Care Coalition and the leadership of
28 Councilmember Leventhal, another piece of the puzzle. But we all acknowledge -- and I
29 think Councilmember Leventhal would be the first to and has been trying to respond to -
30 - the challenges or weaknesses associated with that structure as well. That said,
31 hospitals are a piece of health in the County; but they aren't the only piece. Government
32 is a piece of health in the County, but it isn't the only piece. Decisions about hospitals
33 are made not necessarily by people who live within this County. Rates for those
34 hospitals are not necessarily made within this County. And partnerships come and go,
35 and relationships come and go in a variety of ways. So I say that because a plan is only
36 as good as the information that helps you develop it. And a plan is only a plan; it's not
37 an answer in the long run unless you continue to have the resources -- both financially,
38 but more so structurally -- to be able to respond. So here is my problem. It's somewhat
39 close to some of the questions that Councilmember Berliner made. I am troubled by the
40 way this Resolution is written which seems to suggest that you have to respond not just
41 to one, but to both. And I don't think the language here suggests that you can respond
42 to only the Certificate of Need piece without the second, because it says "the Request
43 for Expressions of Interest should also demonstrate..." The word "also" means that you
44 have to do both. And we may have someone who is a single individual



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1 contractor/consultant who is an expert or a healthcare or a university system kind of
2 structure that may want to respond on the Certificate of Need piece, but not on the
3 second piece. And I think we need language that says, "However, it's not necessary to
4 respond to both pieces to be considered through this process." Because without that, I
5 think you're asking for some large, major operation to respond and only that. And the
6 other point I would make is having spent quite a few years with the procurement
7 process, I think in the drafting of an REOI or the drafting of a Procurement, the Council's
8 sharing of its perspective is one thing; the reviewing of those is another point that may
9 raise some questions about how we proceed. So I see lights. I've caused lights.
10 Councilmember Trachtenbeg, I think, was first and then Councilmember Leventhal.

11
12 Councilmember Trachtenberg,

13 I very much appreciate the observations of our wise President, and actually would
14 concur that adding that additional language would actually make me more comfortable
15 because that was precisely the point that I was trying to get at -- which is, that I didn't
16 think someone looking at this would separate the task. And the Certificate of Need
17 analysis is way different than the Community Health Improvement Plan which involves
18 many steps beyond just a baseline assessment. It includes an environmental scan, the
19 creation of a data collection system, as well as a strategic plan. Typically that's what a
20 CHIP contains. It might be one or two other elements; but in a nutshell, that's what it
21 really means. So if we added that language, I would be more comfortable with it; and I
22 certainly appreciate, Uma, the remarks that you made about really wanting to troll for
23 applicants --in other words, identifying vendors that we can work with in the future on a
24 number of things. Because I think the one thing we do need to take into consideration
25 with the CON analysis is simply that we're going to probably be there, whether we
26 decide to engage or not. But there are going to be other attempts to expand care clearly
27 in this community based on what we know about the needs without even really having
28 any kind of real strategic planning in place just yet. So that's really all I want to say --
29 that if we can add some words in there, that would make me more comfortable because
30 I don't want to limit those. Because I do see the Certificate of Need analysis as just very,
31 very different and a separate activity from anything like a Community Health
32 Improvement Plan.

33
34 Councilmember Leventhal,

35 Councilmember Leventhal. Okay. I'm doing a little chicken scratch here on this draft. Let
36 me suggest the following as a replacement for the last paragraph in the action section of
37 the Resolution. "The Request for Expression of Interest..." -- now, understand that this
38 comes after the description in the second paragraph of the Certificate of Need study. I'm
39 not going to reread that because it's right in front of you.

40
41 Council President Praisner,
42 Right.

43
44 Councilmember Leventhal,



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1 So after the description of the Certificate of Need study, I now propose the following.
2 "The Request for Expression of Interest should also request that applicants demonstrate
3 a competency to develop a Community Health Improvement Plan for Montgomery
4 County. Applicants may reply either to the solicitation for the Certificate of Need
5 analysis, or the solicitation for the CHIP analysis, or both.
6

7 Council President Praisner,

8 That's fine with me. I see nodding from the Committee, so we will consider this a
9 modified Health and Human Services Committee recommendation. Are there any
10 comments from the Executive staff on that?
11

12 Uma Ahluwalia,

13 No. We're comfortable with that.
14

15 Council President Praisner,

16 Okay. Then the Resolution as amended is in front of us. All in favor of adopting the
17 Resolution? (Show of hands) It is unanimous among those present. Thank you all very
18 much. I hope folks will have a good, restful month because we have a lot of work in front
19 of us in September.
20